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Bark "Cape Horn" Pigeon & Co

Bot of Gideon Allen & Son, agts

1872		
Aug 8	1 Peirce Whaling Gun	45.00
	1 Box 65 Bomb Lances @ 4	60.00
		105.00
	Less 10% disch at $6 p. on Lances	6.00
Cash.		$ 99.00
New Bedford	Rec'd Payment	

Gideon Allen & Son Agts

Geo J Allen Jr

Gideon Allen & Son

$99.—

8/23

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Case No. 192.—Thomas Riley was arrested and detained for six weeks. He was awarded $890.

Case No. 272.—Joseph M. P. Nolan was arrested in October, 1861, on the charge of disloyalty, and detained until August, 1863. He was awarded $8,600.

Case No. 285.—John F. Parr was arrested October 20, 1861, and discharged in February, 1862, without trial. He was awarded $4,800.

Case No. 443.—George F. Canty was arrested December 24, 1863, and was confined in Fort Lafayette until March 4, 1864, when he was discharged without trial. He was arrested upon the ground that he was purchasing arms for the Confederates, but the charge was not sustained. He was awarded $15,700.

The question of interest on the amount of indemnity arises in all four of the cases. To award to the claimants the amount of the indemnity alone would not be to make to them *restitutio in integrum*. If it is found that indemnity is due to the owners of a vessel for her confiscation, made nine years previously, and it is decided to award to them to-day only the value of the vessel, this would not be to make restitution to them for their entire losses, for they have lost not only the value of the vessel but also the ability to earn, either by means of the services of their vessel or with the equivalent capital.

In cases of this nature the principle of allowing a just rate of interest on the indemnity is so universally recognized as to preclude the necessity of argument upon the subject.

In his award in favor of the *John S. Bryan* for the payment of interest on the amount of the indemnity due by the Brazilian Government the arbitrator said:

"The principle on which this sum is awarded has long been settled."

Among the numerous cases in which tribunals of arbitration have allowed interest in their awards the following may be cited:

The commission appointed according to the treaty of 1794 between the United States and Great Britain allowed interest on all the claims.

In the Chinese indemnity arbitration the commission allowed interest at the rate of 12 per cent.

The decisions of the American and English claims commission, under the treaty of Washington of 1871, included interest in all the awards, with some few exceptions.

The Geneva tribunal of arbitration in the "Alabama claims" included interest in every case in its award, as also in the arbitration of the claims of the United States against Mexico and against Brazil.

In the case of the *Costa Rica Packet* the distinguished arbitrator awarded to the claimants interest at the rate of 8 per cent.

In the recent arbitration (1897) between the United States of America and Great Britain upon the claims arising out of seizures in the Bering Sea interest was universally allowed.

The Government of the United States of America therefore submits to the honorable arbitrator the following statements of claims, in the full confidence that they are well founded and perfectly just.

HERBERT H. D. PEIRCE.

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CASE No. 1.

The Cape Horn Pigeon, American whaling bark, arrested and seized in the Sea of Okhotsk by an armed vessel of the Imperial Russian Government, taken to Vladivostok, detained there until the end of the whaling season, and finally released without trial.

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The Cape Horn Pigeon, American whaling bark, arrested and seized in the Sea of Okhotsk by an armed vessel of the Imperial Russian Government, taken to Vladivostok, detained there until the end of the whaling season, and finally released without trial.

STATEMENT OF THE FACTS IN THE CASE.

The *Cape Horn Pigeon* was an American bark, duly registered in accordance with the laws of the United States at the port of New Bedford, in the State of Massachusetts, and owned and officered by American citizens. She was equipped for a whaling voyage in the North Pacific Ocean, upon which she set sail on December 7, 1891, and on the 10th day of September, 1892, while peaceably engaged in the pursuit of her legitimate calling on the high seas in the Okhotsk Sea, many miles from any land and wholly without Russian jurisdiction, she was seized by the Imperial Russian authorities and forcibly distrained and taken to Vladivostok, to the great injury of her owners, officers, and crew.

The agents and managing owners of the vessel were, at the time of the seizure, Joseph Wing and William R. Wing, both of New Bedford, in the said State of Massachusetts, copartners, doing business under the firm name of J. & W. R. Wing.

On the 10th day of September, A. D. 1892, the said *Cape Horn Pigeon*, her outfits and cargo, were owned as follows: J. & W. R. Wing, of New Bedford, Mass., held four sixty-fourths; Thomas M. Hart, of New Bedford, Mass., held two sixty-fourths; John Wing, of New Bedford, Mass., held two sixty-fourths; Edward F. Potter, of Dartmouth, Mass., held eleven sixty-fourths; Edward F. Potter, executor of the will of William Potter, second, of Dartmouth, Mass., deceased, held eight sixty-fourths; Michael Baker, administrator de bonis non with the will annexed of Michael Baker, 3d, of Dartmouth, Mass., deceased, held four sixty-fourths; George W. Collins, of Dartmouth, Mass., held one sixty-fourth; Charles C. Church, of Gosnold, Mass., held two sixty-fourths. The said ownership duly appears in the certificate of the collector of customs of the port of New Bedford, a copy of which is hereto annexed, marked "Exhibit A." By the said certificate it appears that the estate of Alexander H. Seabury was the owner of ten sixty-fourths. Said interest had been conveyed previous to the 10th day of September, A. D. 1892, to Louisa B. Haskell, daughter of the said Alexander H. Seabury, deceased. A certified copy of the last register of the said bark, dated the 30th day of November, 1887, is also hereto annexed, marked "Exhibit B." Subsequent to that date the interest therein specified of Jonathan Bourne, two sixty-fourths, had been conveyed to Joseph and William R. Wing; the three sixty-fourths of Abner Potter, jr., of Portsmouth, R. I., therein stated, had been acquired by Edward F. Potter; the four sixty-fourths of Robert Allen therein stated had also

been acquired by Joseph and William R. Wing, who had conveyed to Thomas Scullun four sixty fourths, making the interest of the said Joseph and William R. Wing twenty sixty fourths, as stated in the collector's certificate. All and each of the said owners are native American citizens, and they each claim in their own right were each citizens of the United States when the claim had its origin, and their domicile was then as herein stated.

The officers and crew of the said bark on the 10th day of September, A. D. 1892, were, as stated in the crew list hereto annexed, marked "Exhibit C," stating their names, places of birth, places of residence, of what country citizens or subjects, age, height, complexion, and color of hair. They numbered 30 besides the captain. The officers and crew upon this voyage were shipped in accordance with the provisions of the shipping paper, a copy of which is hereto annexed, marked "Exhibit D," in which the lay or share of each officer and member of the crew is stated, except that of the captain, which was by agreement—and a copy of the said agreement is hereto annexed—marked "Exhibit E." The compensation of the said officers and crew is, by the articles of said shipping paper, fixed as a share of the net proceeds of the voyage, and said proceeds include whatever is recovered by the owners in place of catch from whatever source. The said claims of the said officers and crew are owned by the said officers and crew respectively, except in the cases of some of the crew which have been assigned to the owners in consideration of the advance by the owners of different sums to such of the crew as made request for this to be done. Owing to the small quantity of oil brought in by the bark, as hereinafter stated, most of the seamen are in debt to the ship, their advance and ship's bill amounting to more than their pay, and thereupon payments were made by the owners to such of the crew as requested it, and their claims were assigned to the owners.

The said bark was built in Dartmouth, Mass., in the year 1854, for the whaling business and has always been engaged in the whaling business.

Said bark was purchased by the said Joseph and William R. Wing at the date of the register in the fall of 1887, having been owned and managed previously to that time by William Potter from the time she was built. The said Joseph and William R. Wing were owners in her at the time she was built and have continued so ever since. She was of $201\frac{42}{100}$ tons burden, present measurement. She was fitted out at San Francisco, Cal., by the said J. and W. R. Wing, in December, 1891, for a year's whaling voyage in the Japan and Okhotsk seas. She was fully equipped for said whaling voyage, and neither directly or indirectly was fitted for a sealing voyage, or for aiding or assisting others engaged in sealing, and in the equipment and fitting out aforesaid whaling voyage no intention was had of taking any fur seal on land or water on the Okhotsk Sea or elsewhere; no tackle therefor was put on board, and no material for the preservation of seal skins. A certified copy of the clearance of said bark on said voyage is hereto annexed, marked "Exhibit F," and a certified copy of the manifest, marked "Exhibit G," the originals of said papers being duly filed in the custom-house.

As hereinbefore stated, the said bark sailed upon the said whaling voyage on December 7, 1891. The history of the said voyage of the said *Cape Horn Pigeon* is narrated in detail in the affidavit of the captain of the bark, Thomas Scullun, a duly authenticated copy of which affidavit is hereto annexed, marked "Exhibit H."

From said affidavit it appears that on the 10th day of September, A. D. 1892, the *Cape Horn Pigeon* was in the Okhotsk Sea, upon the high seas, where she had a perfect right to be, engaged in her legitimate calling of whaling; that she had twice previously during the same voyage called at the Russian port of Vladivostok, where her captain had not only publicly announced his intention of whaling in the Okhotsk Sea, but had communicated with the Imperial Russian Government, asking permission to enter and fish for whales in certain bays which he deemed to be within Russian jurisdiction. The reason for preferring this request for permission to visit the said bays was the previous issuance by the Imperial Russian Government of a notice to mariners forbidding them to fish for whales within the limit of miles from the Russian coast or in the bays included within the 3-mile limit, a copy of which notification having been published in the New Bedford Whalemen's List, a journal devoted to the whaling interest, published in America, on December 7, 1875, a copy of which is annexed to the deposition of W. R. Wing, hereto annexed and hereinafter referred to, said deposition being marked "Exhibit V," and said copy of said notification being marked "Annex 9" thereof. And said assertion as to the issuance of such notification to mariners, forbidding them to fish for whales within said bays, is further supported by the official document of the Imperial Russian ministry of marine dated 1875, a copy of which is hereto annexed, together with a sworn translation of a paragraph on page 91 of said document, all included in Exhibit C C. This permission to visit the said bays was not granted, but neither was any intimation given to the captain that the Imperial Russian Government claimed jurisdiction over the entire waters of the Okhotsk Sea or the right to prohibit its navigation for any purpose whatsoever beyond the ordinary jurisdiction commonly accepted among nations as appertaining to all countries, namely, a marine league from low-water mark. Yet it appears further from the same affidavit, what is admitted to be the case by the Imperial Russian Government in a note from the Imperial Russian ministry of foreign affairs to the then envoy extraordinary and minister plenipotentiary of the United States of America, dated June 12 (old style), or June 24 (new style), 1893, a certified copy of which is hereto annexed, marked "Exhibit I," namely, that the said bark was arrested and seized upon the open sea of Okhotsk Sea upon the said 10th day of September (new style), or 29th day of August (old style), 1892, by an officer of the Imperial Russian navy, in command of an armed vessel of the navy, by force of arms, and by force of arms taken to Vladivostok. It appears from the said affidavit that the captain duly protested against the arrest and seizure of his vessel, but that in spite of his protests the seizure was made and the crew of the *Cape Horn Pigeon* was pressed, against their will, into the service of the Imperial Russian Government, and compelled to navigate the vessel of the said officer of the Imperial Russian navy into Vladivostok. And it further appears from said affidavit and from the log book of the said vessel, which is hereto annexed forming part of the deposition of W. R. Wing, Exhibit V, and marked "Annex 1" of that exhibit, that the said bark was detained by the Imperial Russian authorities until the 1st day of October, 1892. It also appears from the said affidavit that the arresting officer of the Imperial Russian navy set up the claim, in making the arrest, that

the Okhotsk Sea was a closed sea. In the note of the Imperial Russian ministry of foreign affairs, dated June 12/24, 1893, above cited and marked "Exhibit I," no attempt is made to support this claim, nor does it appear that the Russian Government has ever claimed exclusive jurisdiction over that sea.

Upon the arrival of the said bark in the harbor of Vladivostok the captain took the first available opportunity to inform, by telegraph, the legation of the United States of America at St. Petersburg of the seizure of the *Cape Horn Pigeon* in a telegram, a certified copy of which is hereto annexed, marked "Exhibit J."

Upon receipt of the said telegram the then Chargé d'Affaires of the said United States addressed a note to the Imperial Russian ministry of foreign affairs, dated September 9/21, 1892, a certified copy of which is hereto annexed, marked "Exhibit K," and received in reply a note from the said Imperial ministry, dated September 19 (old style), October 1 (new style), 1892, a certified copy of which note is hereto annexed, marked "Exhibit L," informing the said Chargé d'Affaires that the said bark had been released.

And in point of fact the said bark *Cape Horn Pigeon* was released, but not until it was too late to continue her whaling voyage for that season, for, as is shown by the affidavits of three experienced whaling captains familiar with the habits of the whales and with the winds in the said Okhotsk Sea, certified copies of which affidavits are hereto annexed, marked respectively "Exhibit M," "Exhibit N," and "Exhibit O," the whaling season closes in the Okhotsk Sea between the 1st and 10th days of October, while the *Cape Horn Pigeon* was unable to leave Vladivostok before October 1, 1892.

By reason of this seizure by the Imperial Russian Government of the said bark *Cape Horn Pigeon*, and of the subsequent action of the said Government in forcibly taking the said bark away from her fishing grounds just at the most favorable season of the year, when the whales had just begun to strike in to the said fishing grounds, and in detaining her at Vladivostok, a point far removed from said fishing grounds, until it was impossible for her to get back and resume her lawful calling, not only before the season would have terminated, but in time for her to have proceeded to any other whaling waters to resume her calling and arrive at San Francisco within the limit of time specified in the contract with the crew, namely, in the autumn of 1892, thereby depriving the owners, officers, and crew of said bark of the services of the vessel and her outfit for the remainder of the season, as well as in the consumption of the provisions and stores of said bark by the officers and men of the Russian Government, the pressing of the crew into the service of the said Government, compelling them to bring the Russian vessel to Vladivostok against their will, and by reason of the expenses incurred, not only by the captain, officers, and crew at Vladivostok for their maintenance, but by reason of the necessity of sending many and costly telegraphic messages to distant parts of the world, the consultation of legal counsel, the necessary hire of clerical assistance, of boats, and of carriages, the detention of the crew as prisoners, and the failure to provide for said crew's needs, and, finally, by reason of the expense of the present proceedings, the owners, officers, and crew of the said bark *Cape Horn Pigeon* suffered severe damage, for which damage they now seek indemnity.

These damages the said captain of the said bark *Cape Horn Pigeon* estimated, at the time of the arrest and detention at Vladivostok, at

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$49,500, and he presented to the competent officer of the Imperial Russian Government at Vladivostok a claim for that amount of damage in two letters dated at Vladivostok the 15-27th day of September, 1892, copies of which letters are hereto annexed, marked, respectively, "Exhibit P" and "Exhibit P°."

PRESENTATION OF THE CLAIMS TO THE IMPERIAL GOVERNMENT OF RUSSIA.

On the 3d day of May (old style), 1893, the then envoy extraordinary and minister plenipotentiary of the United States near to His Imperial Majesty the Emperor of all the Russias, addressed a note to the Imperial Russian ministry of foreign affairs, a duly certified copy of which is hereto annexed, marked "Exhibit Q," again calling the attention of the Imperial Government to the seizure of the said bark *Cape Horn Pigeon* and requesting that an investigation be made as to the action of the Imperial Russian officials in this regard, and that the legation of the United States be informed as to the results of said investigation. In reply to the said note the said ministry of foreign affairs addressed to the said legation the note, already cited and marked "Exhibit I," under date of June 24 (new style), 1893. In this note it is stated that a commission had been appointed to inquire into the seizure of the said bark *Cape Horn Pigeon*, and that this commission, while practically in accord with the statement made by the captain of the said bark as to the locality of the bark when seized, found that, while the *Cape Horn Pigeon* had navigated within Russian territorial waters, there was no reason for ordering her confiscation, and admitted that the arrest had been made owing to a misunderstanding, and had ordered the release of the vessel. The said note, after expressing the opinion that the item of damages for whales which could have been taken had not the voyage been interrupted, amounting to $45,000, was excessive, expresses the opinion that $2,500 would be sufficient to indemnify the parties in interest for their losses, thereby admitting that an indemnity for the seizure was due.

On the 2d day of June (old style), 14th day of June (new style), 1894, the then envoy extraordinary and minister plenipotentiary of the United States of America near to His Imperial Majesty the Emperor of all the Russias, acting under instructions from his Government, addressed a note to the Imperial Russian ministry of foreign affairs, a copy of which is hereto annexed marked "Exhibit R," presenting the claims of the owners, officers, and crew of the said bark *Cape Horn Pigeon* for indemnity for the arrest of the said bark. No answer being received to the said note, the legation of the United States at St. Petersburg, Russia, continued to press for a reply thereto, but it was not until October 12/24, 1895, that the reply of the said ministry of foreign affairs, a copy of which is hereto annexed marked "Exhibit S," was received. In this reply the said ministry after referring to its former expression in the note of the said ministry, already referred to and marked "Exhibit I," requests that the Imperial Government be furnished vouchers for the expenses incurred by the captain and owners of the said bark *Cape Horn Pigeon*, which expenditures, amounting to $3,400, had been included in the claim presented by the said minister plenipotentiary of the United States in the note before cited and marked "Exhibit S."

As while the Imperial Russian Government recognized the fact that the seizure of the said bark *Cape Horn Pigeon* was unjustifiable, and

that a certain indemnity therefor was due to the owners, officers, and crew thereof, as is shown in the notes of the Imperial ministry of foreign affairs above referred to, but repudiated the principal item of the claim, namely, that for the loss of the services of the said bark, her equipment, and crew during the period of the detention, it did not seem to the claimants expedient to in any way appear to acquiesce in the justice of such repudiation by submitting at that time an account in detail for any minor part of their claim independent of the principal and disputed item thereof. All these items of expense are, however, now submitted in detail in the bill for damages hereto annexed.

On the 27th day of January (8th day of February), 1899, the then Chargé d'Affaires, acting under instructions from his Government, addressed a note to the Imperial Russian ministry of foreign affairs, a copy of which is hereto annexed marked "Exhibit T," offering to accept, on behalf of these claimants, for the damages suffered by them on account of the seizure of the said bark *Cape Horn Pigeon*, and in full settlement therefor, the sum of $42,000, by way of compromise, but this offer was made by the Government of the United States with the express statement, distinctly set forth in the said note, that the said offer was made with a view to reaching an early settlement of the case, and that, should the said offer of compromise be refused by the Imperial Russian Government, nothing therein should be construed as in any way to prejudice the rights of the said claimants, nor especially their right to recover the full amount of their claims by arbitration or by negotiation.

In reply the embassy of the United States of America received a note from the Imperial Russian ministry of foreign affairs, dated March 13 (old style). March 25 (new style), 1899, a copy of which is hereto annexed marked "Exhibit U," in which the Imperial Russian Government rejected the offer of compromise submitted by the Government of the United States and again offered the sum of $2,500 indemnity for the aforesaid seizure of the bark *Cape Horn Pigeon*.

In addition to the documents above specified, the following are also hereto annexed and submitted in evidence, marked, respectively, as herein indicated:

Exhibit V.—The sworn deposition of William R. Wing, of New Bedford, Mass., in the United States of America, to which are attached—

Annex 1.—The log book of the bark *Cape Horn Pigeon* upon its voyage in 1892.

Annex 2 and Exhibit 3.—Charts of the North Pacific Ocean.

Annexes 4, 5, 6, and 7.—Accounts of the bark *Cape Horn Pigeon*, showing the cost of the vessel and her outfit.

Annex 8.—Accounts of expenditures paid by J. and W. R. Wing, owing to the seizure of the *Cape Horn Pigeon*.

Annex 9.—Copy of an extract from the New Bedford Whaleman's Shipping List of December 7, 1875.

Exhibit W.—Official Russian map showing the Okhotsk Sea and a line marking the extreme limit of jurisdiction ever claimed therein by Russia.

Exhibit X.—Statement of the officers and crew of the *Cape Horn Pigeon* regarding the arrest of the vessel, dated September 21, 1892, and duly signed and witnessed.

Exhibit Y.—Declaration of the captain and crew of the *Cape Horn Pigeon*, dated September 23, 1892, duly signed by the captain and 29 of the officers and crew.

Exhibit Z.—Copy of a letter, dated Vladivostok, September 27, 1892, from Thomas Scullen, captain of the *Cape Horn Pigeon*, to Commander Charles V. Gridley, of the United States Navy, commanding the U. S. S. *Marion*.

Exhibit AA.—Chart showing the course of the *Cape Horn Pigeon* during her voyage in the Okhotsk Sea in 1892.

Exhibit BB.—Copy of a note from the Imperial Russian ministry of foreign affairs to the envoy extraordinary and minister plenipotentiary of the United States of America at St. Petersburg, dated July 31, 1868.

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Exhibit DD.—Document No. 59 of the Senate of the United States of America, Fifty-fifth Congress, second session: Bering Sea Awards.

Exhibit EE.—A copy of a note of the Imperial Russian ministry of foreign affairs, dated May 8, 1882.

Exhibit FF.—A copy of a note of the Imperial Russian ministry of foreign affairs, dated June 1, 1882.

TREATY OBLIGATIONS OF RUSSIA AND THE LAWS OF NATIONS.

The Okhotsk Sea is a great arm of the North Pacific Ocean, from which it is separated by the chain of islands known as the Kuril Islands. Its vast extent precludes the possibility of its effective occupation and control by any single nation. Nor, indeed, has any such occupation ever been attempted, nor has the Imperial Russian Government ever publicly asserted any right to control the navigation of its waters or by any proclamation or other act attempted to prohibit fishing or whaling within its limits beyond ordinary jurisdictional waters. On the contrary, the treaties of 1824 and 1825 with the United States and Great Britain, respectively, as well as the long continued resort to its waters without molestation of foreign whaling vessels in pursuit of their calling, constitute acts of admission of the absence of any intent to claim a right of prohibition to all men of the free use of its waters beyond the limits of ordinary marine jurisdiction. The affidavits of Ezra B. Lapham, George O. Baker, and B. D. Cleveland, submitted in evidence herewith, show that this sea was a common resort for whalers.

The captain of the *Cape Horn Pigeon* has stated in his sworn affidavit, Exhibit H, and it is to be observed that his credibility is vouched for by several witnesses of good standing, also under oath, that the commander of the arresting Russian vessel declared at the time the seizure was made that the Okhotsk Sea was a closed sea and that he had orders to seize all vessels found taking whales therein and that the seizure of the bark in question was made on that account.

Were this declaration of the Russian commander, that the Okhotsk Sea is a sea closed to the navigation and the pursuit in its open waters beyond ordinary marine jurisdiction of the animals *feræ naturæ* frequenting it, supported by the claims of the Imperial Russian Government, it is not easy to see how, in the light of present opinions on the subject of ownership of the high seas, that claim could be maintained conformably to the accepted principles of international law, even aside from the treaties of 1824 and 1825, made by the Imperial Russian Government and the United States and Great Britain, respectively.

The first article of the treaty with the United States, of 1824, reads as follows:

> It is agreed that, in any part of the great ocean commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not have already been occupied, for the purpose of trading with the natives, saving always the conditions determined by the following articles.

The first article of the treaty between the Imperial Russian Government and the Government of Great Britain reads as follows:

> Il est convenu que dans aucune partie du grand océan, appelé communément Océan Pacifique, les sujets respectifs des Hautes Puissances contractantes ne seront ni troublés, ni gênés soit dans la navigation, soit dans l'exploitation de la pêche, soit dans la faculté d'aborder aux côtes sur des points qui ne seraient pas déjà occupés

pés, afin d'y faire le commerce avec les indigènes, sauf toutefois les restrictions et conditions déterminées par les articles qui suivent.

In rendering its decision the Paris tribunal of arbitration with regard to the differences between the Governments of Great Britain and the United States a majority of the abitrators adopted the following decision:

By the ukase of 1821 Russia claimed jurisdiction in the sea known as the Bering Sea to the extent of 100 Italian miles from the coast and islands belonging to her, but in the course of the negotiations which led to the conclusion of the treaties of 1824 with the United States, and of 1825 with Great Britain, Russia admitted that her jurisdiction in the said sea should be restricted to the reach of a cannon shot from the shore, and it appears that from that time up to the cession of Alaska to the United States Russia never asserted in fact or exercised any exclusive rights in the seal fisheries therein beyond the ordinary limit of territorial waters.

In both of these treaties the expression employed is "in any part of the great ocean commonly called the Pacific Ocean." What did the decision of the tribunal mean in this regard? The Bering Sea was and is as much separated from the main ocean as was and is the Okhotsk Sea, and was and is equally distinguished therefrom by name. Both are, however, branches of the great ocean, and the decision which includes the waters of the one as part of that great body of water must necessarily include the other.

A claim of exclusive jurisdiction over gulfs of any such size and extent as the Okhotsk Sea is not in accord with the consensus of opinion of the accepted authorities on international law to-day. A very eminent authority upon the subject has expressed the following view:

In our day legislation and the opinions of jurists are in accord in recognizing the liberty of the ocean, and no people could make pretension of control thereof. Those portions of the sea which are connected with the ocean are admitted to be free and accessible to all the world, even when they are surrounded by the possessions of a single State. Certain restrictions of this principle admitted in practice can only be justified by the necessity of safeguarding the security of the bordering country.

Consequently, from the present point of view, the sovereignty of a State over the seas which bound it can not extend to a distance which would deprive them of their character of open seas. Thus Sweden was in the wrong in claiming sole possession of the Baltic. This sea, communicating with the ocean as it does, ought always to remain open to all States. * * *

The Sea of Kara can not be considered as belonging to Russia. With regard to its geographical position a mere glance at the map shows that the Sea of Kara communicates directly with the Arctic Ocean and that it is entirely open to navigation. If it is alleged that it is covered with ice during nine months of the year and that the ice forms a continuation of Russian territory, it may be objected to that reasoning that ice has never yet been likened to terra firma. Furthermore, the free use of that sea might be necessary to other States for navigation during the three months when it is not frozen. From the judicial point of view it is an open sea. (F. de Martens, Traite de Droit International. Translated into French by A. Leo, Vol. I, pp. 494–496.)

The opinion of the distinguished counsel for the Imperial Russian ministry of foreign affairs regarding the Kara Sea applies with equal or even greater force to the Okhotsk Sea, which is connected with an ocean much more frequented than is the Arctic Ocean. Its waters are less closed to navigation by ice, and its area is vastly greater than that of the Kara Sea.

The same high authority states further on in his valuable treatise (Vol. I, sec. 97, p. 497):

The ocean is free for the navigation and communication of all peoples. No nation can be prevented from the enjoyment of fishing or other peaceful enterprises on the high seas. If all enjoy the same rights thereon, it follows that no State can there impose its laws upon the others, pass judgments on foreign navigators or sailors, nor arrest or search the ships of another country.

Vattel says (Book I, Chap. XXIII, secs. 289, 291):

All we have said of the parts of the sea near the coast may be said more particularly and with much greater reason of the roads, bays, and straits as still more capable of being occupied and of greater importance to the safety of the country. But I speak of the bays and straits of small extent, and not of those great parts of the sea to which these names are sometimes given, as Hudson Bay and the Straits of Magellan, over which the empire can not extend, and still less a right of property.

But if the jurisdiction and right of property of the bordering nation can not extend over Hudson Bay, which is surrounded on every side by British possessions, not only as regards the mainland, but as regards the chain of islands stretching across its wide mouth, how much more is this principle applicable to the Okhotsk Sea, across the wide mouth of which extends the chain of the Kurile Islands, belonging to the Empire of Japan?

The American schooner *Washington*, while engaged in fishing in the Bay of Fundy, 10 miles distant from the shore, was seized by one of Her Britannic Majesty's cruisers and taken to Yarmouth, Nova Scotia, and condemned, on the ground that she was engaged in fishing in British waters in violation of the provisions of the convention relative to the fisheries, entered into between the United States and Great Britain on October 20, 1818. A claim for damages was made before the commission of arbitration under the claims convention between the United States and Great Britain of February 8, 1853, on the ground that the seizure was in violation of the provisions of the convention of 1818 and of the law of nations. Hornby, British commissioner, maintained that the seizure was justified, both on the ground that the Bay of Fundy was an indention of the sea over which Great Britain might by virtue of the law of nations claim jurisdiction, and also on the ground that, by a fair construction of the convention of 1818, the Bay of Fundy was one of the "bays" in which, by that convention, the United States had renounced the right to fish. Upham, the American commissioner, denied both these contentions, citing Vattel I, chapter 20, sections 282, 283; Grotius II, chapter 2, section 3; I Kent's Commentaries, 462; Sabine's Report on the Fisheries, 282, 294.

In rendering his decision in favor of the claimants the umpire said:

The Bay of Fundy is from 65 to 75 miles wide and from 130 to 140 miles long. It has several bays on its coasts. Thus the word bay as applied to this great body of water has the same meaning as that applied to the Bay of Biscay, the Bay of Bengal, over which no nation can have the right to assume sovereignty.

RUSSIA'S RESPONSIBILITY.

Indeed, the Russian Government itself had admitted, by the issue of the notice to whalers and sealers, which was copied into the New Bedford Whaleman's Shipping List (Exhibit 9 of Exhibit V), that her jurisdiction in the Okhotsk Sea did not extend beyond ordinary jurisdictional waters. And the same admission is made in the note of the Imperial Ministry of Foreign Affairs to the Envoy Extraordinary and Minister Plenipotentiary of the United States at St. Petersburg, dated July 31, 1868, and submitted in evidence marked "Exhibit BB," as well as in the official publication issued by the Imperial Russian Ministry of Marine for the year 1875, also submitted in the evidence and marked "Exhibit CC," upon page 91, a sworn translation of the paragraph in question being attached to the exhibit.

In any case, however, the *Cape Horn Pigeon* was quite outside of any claimed Russian jurisdiction when the seizure was made. The map

of the Okhotsk Sea, published by the Russian Government, submitted in the evidence for the complainants, marked "Exhibit W," shows a line of demarcation which, as it forms a continuation of a line which it was formerly claimed marked the partition of American and Russian jurisdiction in the Bering Sea—an extent of jurisdiction which the Paris tribunal of arbitration forever disposed of—it doubtless represents some former pretension to jurisdiction, and clearly is the extreme limit to which jurisdiction could be claimed under any theory. Now, the point at which the *Cape Horn Pigeon* was seized was outside of the waters on the Russian side of this line. Moreover, the plotting of the course of the *Cape Horn Pigeon* on the chart, according to the entries in the log book, show that after leaving Vladivostok she never again entered Russian waters until she was brought there after the arrest, contrary to the assertion of the Russian commission of inquiry.

But, in point of fact, the Imperial Government of Russia has not attempted to support the pretention that the seizure of the *Cape Horn Pigeon* was justifiable on the ground that that vessel had not the right to fish for whales in the open sea of the Okhotsk Sea. On the contrary, it appears from the note of the Imperial Ministry of Foreign Affairs to the Minister of the United States to Russia, dated June 12/24, 1893, submitted in the evidence and marked "Exhibit I," that the Imperial Government disclaimed any such pretention to exclusive control, and, while admitting that the seizure was not justified by the fact, puts the ground for such seizure upon certain suspicions entertained by the Russian commander regarding the *Cape Horn Pigeon* and her action.

But whatever may have been the suspicions of the commander of the Russian vessel, in acting upon them and seizing the *Cape Horn Pigeon*, he assumed for his Government full responsibility for all damage directly resulting therefrom, unless some wrongful act on the part of her occupants cognizable by the Russian Government should be established.

M. de Martens says (Traité de Droit International, Tome II, § 56, 3°, p. 342):

> No government has the right of search of foreign ships nor in general of their arrest on the high seas. The right, however, of arresting a vessel suspected of piracy is generally admitted. It is a corollary of this principle that in its application it is essential to use the greatest circumspection, since a vessel unjustly arrested is entited to damages.

The *Cape Horn Pigeon* was at the time of her arrest, according to the statement of the Imperial Russian Government itself, in the note of the Ministry of Foreign Affairs of June 12 (24), 1893, above referred to (Exhibit I), in latitude 46° 31′, longitude 146° 30′ east, a point 125 miles from the nearest Russian land, namely the island of Sagalin, and 84 miles from the Japanese island of Yeratop. She was therefore upon the high seas entirely out of Russian jurisdiction and engaged in her legitimate calling of whaling. Her captain protested against her seizure and warned the commanding officer of the Russian vessel that he would have to pay indemnity for the interruption of his voyage, and the Russian officer replied that if he was wrong in making the seizure his Government would indemnify the losers.

The note of the Russian Ministry of Foreign Affairs just referred to states that the Russian commission of inquiry into the matter of the seizure of the *Cape Horn Pigeon* found that that vessel had navigated within Russian waters, but no evidence has been offered to show upon

1.3.2.7

what ground the commission had arrived at this finding. In stating this the commission found further that there was no ground for the confiscation of the vessel.

The right of innocent passage of fishing and merchant ships in marginal territorial waters is too well established a principle of international law to permit that to be set up as a claim of any right to interrupt the voyage and employment of this vessel.

> For more than two hundred and fifty years no European territorial [illegible] which could be used as a thoroughfare, or into which vessels could accidentally [illegible] or be driven, have been closed to commercial navigation; and during the present century no such waters have been closed in any part of the civilized world. The right must, therefore, be considered to be established in the most complete manner (W. E. Hall, A Treatise on International Law, 1895, Part II, Chap. II, [illegible] 12, p. 165.)

It follows therefore that, both by right of treaty and by every principle of international law, as well as by the admission of the Russian Government, the *Cape Horn Pigeon* was in the pursuit of a calling in which she could not be lawfully interfered with when she was seized by the agents of the Russian Government and taken to Vladivostok, thereby breaking up her voyage and causing great damage upon her owners, officers, and crew in consequence. Her seizure was a violation of the treaty rights existing between her country and Russia as well as of the rights of man.

And in point of fact the Russian Government has acknowledged the illegitimate character of the seizure not only in the statement made in the ministerial note of June 12 (24), 1893, as follows:

> Nevertheless, the commission of investigation to which this case was referred while stating also that the *Cape Horn Pigeon* had navigated within Russian territorial waters, found no cause to order her confiscation. *It was then admitted that the arrest of this vessel had been made as the result of a misunderstanding*, and the vessel was returned to her owners without delay.

but also in the offer of an indemnity, wholly inadequate though it was, for the seizure of the bark.

THE MEASURE OF DAMAGES.

The principal item of damage claimed by the owners, officers, and crew of the *Cape Horn Pigeon* is that amounting to $45,000 for the loss of the service of the vessel. The captain of the bark formed his estimate of the amount of the damage sustained in this particular by striking an average of the whales taken by him during his several previous voyages in the same waters and deducting from the value of the average the value of the whales already taken by him during the voyage in question. This was an eminently fair and businesslike way of arriving at an estimate of the loss sustained by the breaking up of the voyage. The claim is one for absolutely direct damages arising out of the seizure, whereby a continuance of the whaling voyage was rendered impossible owing to the lateness of the season, the impossibility of getting back to the grounds before its termination, and the approaching termination of the engagement with the crew.

In the case of the United States vessel *Betsey*, unlawfully [illegible] by British authorities, the majority of the board of arbitration decided in favor of allowing to the claimant, not only the value of the vessel and her cargo, but also the profits which would have been derived from the sale of her cargo had she been allowed to continue her voyage. The claims of the owners of the *Neptune* were similarly decided in 1795.

of the American brig *Williams*, seized by the Mexican
29, the umpire awarded passage money which would
received if the brig had been permitted to continue her
immediate destination, where she expected to receive a

the damages claimed for the loss of catch of a whaling ship in no sense
for indirect damages or for speculative profits. They
direct loss sustained by the owners, officers, and crew of
Cape Horn Pigeon, owing to her unlawful seizure and detention at
, whereby she was taken away from her lawful calling
ight of the whaling season, and kept away from its pur-
it was too late to resume it during that year. They are such
as are usually allowed in analogous cases for losses which the
officers, and crew suffered by the seizure and detention, as
ed by the value of the services of the vessel, outfit and
, during the time of the detention, and are of the nature of the
urrage usually allowed for the detention of merchant or trading
ls. But the basis of estimate of demurrage upon a trading vessel
not be applicable as the measure of damage suffered by a whal-
ship taken from the pursuit of her calling in the height of the
season during which whales are to be taken in northern latitudes.
damage sustained by a freighting ship, owing to her detention,
may be compensated by the payment of such a sum as may be esti-
upon her earning capacity in carrying freight during the period
of the detention, on the theory that she can always resume her carry-
ade, which has only suffered an interruption not further affecting
earning capacity than as regards the mere loss of time. But in the
se of a whaling ship the entire earnings of the vessel during an entire
season depend upon her taking advantage of her opportunity when it
arrives, and the loss of her service at that moment may deprive her
ers of any return upon their investment during the whole year,
er crew, who are paid by lay, of all remuneration for their
for the voyage and season. Thus the *Cape Horn Pigeon* was
for very nearly a whole year and brought back an insufficient
of oil and bone to defray expenses, let alone make a profit,
her crew not only did not make their wages, but remain in debt
ship for advances made them.

rule of damages is well settled that in a fishing voyage the loss
ervice of a fishing vessel is to be compensated upon the value
vessel's use during the time of her detention, and this depends
the character and employment of the vessel. The objection that
profits are not admissible as a substantive ground of dam-
does not apply or exclude the use of the average catch of a fishing
as evidence of the value of that vessel's use, but is the best evi-
, exactly as it is the evidence used in other cases to determine
suffered by a party from the deprivation of the use of his
The rule is particularly applicable to cases of whale ships,
the crew, being paid by lay and having no ownership of the
be compensated for their damages by their lay in the
instead of being allowed to make separate independ-
for themselves.

abundant evidence of the application of this rule in esti-
measure of damage caused to a whaling ship by interfer-
pursuit of her calling, and it has always been justly
the crew, being generally paid by lay or proportion of

the proceeds of the voyage, which involves special hardships and dangers, can only be fairly compensated upon the basis of the estimated value to them of the services of their ship and its equipment during the time of detention. The owners also equip their vessels, at great expense, for long and perilous voyages, in the expectation of commensurate returns in which they must divide the proceeds with the crew, and their loss can only be estimated upon the basis of the use of their ship and her crew and equipment for the purpose for which she was sent out and not upon a percentage upon the capital invested or the value in money of the ship if put to other uses. The only criterion applicable, therefore, is the average catch.

In the case of the *Costa Rica Packet* the distinguished arbitrator, himself a Russian subject and the official and permanent counsel of the Imperial Russian Ministry of Foreign Affairs, in rendering his decision said in the preamble to his award:

> Whereas the unjustifiable detention of Captain Carpenter caused him to miss the best part of the whaling season;
>
> Whereas, on the other hand, Mr. Carpenter, on being set free, was in a position to have returned on board the ship *Costa Rica Packet* in January, 1892, at the latest; and
>
> Whereas no conclusive proof has been produced by him to show that he was obliged to leave his ship until April, 1892, in the port of Ternata, without a master, or, still less, to sell her at a reduced price;
>
> Whereas the owners or the captain of the ship being under an obligation, as a precaution against the occurrence of some accident to the captain, to make provision for his being replaced, the mate of the *Costa Rica Packet* ought to have seen fit to take command and to carry on the whaling industry;
>
> And whereas, thus, the losses sustained by the proprietors of the vessel *Costa Rica Packet*, the officers and the crew, in consequence of this precautionary detention.

The principle of admitting the loss of catch in estimating the measure of damage to a whaling vessel by reason of her unjustifiable detention is thus clearly admitted by this high authority on international law.

In the case of the *Potomac*, before the Supreme Court of the United States, Mr. Justice Gray, in delivering the opinion of the court, said:

> Both the questions of law presented by the record relate to the amount of the damages that the libellant is entitled to recover.
>
> One question is as to the sum to be allowed for the detention of his vessel while repairing the injuries suffered by the collision. The rules of law governing this question are well settled, and the only difficulty is in applying them to the peculiar facts of the case.
>
> In order to make full compensation and indemnity for what has been lost by the collision, *restitutio in integrum*, the owners of the injured vessel are entitled to recover for the loss of her use, while laid up for repairs. When there is a market price for such use the price is the test of the sum to be recovered. When there is no market price, evidence of the profits that she would have earned, if not disabled, is competent. (United States Reports, vol. 105, p. 630–632.)

In the case of Williamson *v.* Barrett, before the Supreme Court of the United States, Mr. Justice Nelson, in delivering the opinion of the court, said:

> As to the question of damages, the jury were instructed, if they found for the plaintiffs, to give damages that would remunerate them for the loss necessarily incurred in raising the boat and repairing her, and also for the use of the boat during the time necessary to make the repairs and fit her for business.
>
> By the use of the boat, we understand what she would produce to the plaintiffs by the hiring or chartering of her to run upon the river in the business in which she had been usually engaged.
>
> The general rule in regulating damages in cases of collision is to allow the injured party an indemnity to the extent of the loss sustained. This rule is obvious enough, but there is a good deal of difficulty in stating the grounds upon which to arrive, in all cases, at the proper measure of that indemnity.

The expenses of raising the boat and of repairs may of course be readily ascertained, and in respect to repairs a deduction is to be made, as in insurance cases, for the new materials in place of the old. The difficulty lies in estimating the damage sustained by the loss of service of the vessel while she is undergoing the repairs.

That an allowance short of some compensation for this loss would fail to be an indemnity for the injury is apparent. This question was directly before the court of admiralty in England in the case of the *Gazelle*, decided by Dr. Lushington in 1844, 2 W. Robinson, 279. That was a case of collision, and in deciding it the court observed: "That the party who has suffered the injury is clearly entitled to an adequate compensation for any loss he may sustain for the detention of the vessel during the period which is necessary for the completion of the repairs and furnishing the new articles."

In fixing the amount of the damages to be paid for the detention, the court allowed the gross freight, deducting so much as would in ordinary cases be disbursed on account of the ship's expenses in earning it.

This rule may afford a very fair indemnity in cases where the repairs are completed within the period usually occupied in the voyage in which the freight is to be earned. But if a longer period is required it obviously falls short of an adequate allowance. It looks to the capacity of the vessel to earn freight, for the benefit of the owner, and consequent loss while deprived of her service. In other words, to the amount she would earn him on hire. (13 Howard, 101.)

(See also the following cases: The *Baltimore*, 8 Wallace, 377–385; *Cayuga*, 14 Wallace, 270; *Freddie L. Porter*, 5 Federal Reports, 1, 822; *Vermont*, 8 Federal Reports, 170; Brown *v.* Hicks, 24 Federal Reports, 811; Parsons *v.* Terry, 1 Lowell, 60; the *Notting Hill*, 9 Pro. Div., 105–113; the *Parana*, 2 Pro. Div., 118; the *Mary Steele*, 2 Lowell, 370–374; the *Risoluto*, 8 Pro. Div., 109; the *Clarence*, 3 William Rob., 283–286; the *Gleaner*, 38 L. T. N. S., 650; the *Marsden* Collision, 2d edition, p. 115.)

This rule was applied in the cases of the whaling ships *James Maury*, *General Pike*, *Mile*, and the bark *Nile*, captured by the Confederate cruiser *Shenandoah* and compelled to abandon their whaling voyages, in the decision of the Court of Commissioners of Alabama Claims.

(See also the *Walter Phare*, 1 Lowell, 437; *Stormless*, 1 Lowell, 153; *Mayflower*, 1 Brown, Adm., 376; Transit, 4 Ben., 138; Swift *v.* Brownell, 1 Homes, 467; the *Antelope*, 1 Lowell, 130; Bourne *v.* Smith, 1 Lowell, 547; Frates *v.* Howland, 2 Lowell, 36; Hussey *v.* Fields, 1 Sprague, 364–396; Knight *v.* Parsons, 1 Sprague, 279; 290 Barrels of Oil, 1 Sprague, 279; Backster *v.* Rodman, 3 Pickering (Mass.), 435, 438, 439; Fletcher *v.* Taylor, 17 C. B., 21; Corey *v.* Thames Iron Works, L. R., 3 Q. B., 181; Ex parte Cambrian Steam Packet Co., L. R., 6 eq., 396; Cayuga, 2nd Ben., 125; Jolly *v.* Terra Haute, 6 McLane, 237; Williamson *v.* Barrett, 13 Howard, 101.)

Other cases of the application of the rule before international tribunals are those of—

The *Hope On*, detained by the Chilean Government in 1883 at Talcahuano, in which the commission of arbitration in its award said:

On the other hand, the majority of the commission, Mr. Commissioner Gana dissenting, are of the opinion that the claimant is entitled to recover damages on account of the arrest and detention of the vessel. The principle is well established in cases like the present that the loss of the use of the vessel is the proper measure of damages, and the loss of such use is the loss of her probable catch during her enforced absence from the fishing grounds. (G. B. Borden *v.* Chile.)

In the case of the *Col. Lloyd Aspinwall*, seized by the agents of the Spanish Government, the umpire, in his award in favor of the claimants, allowed for one hundred and fourteen days' interruption of trade.

This subject has recently undergone the most thorough and careful examination by the commission appointed to adjust the claims of the

Canadian sealers against the Government of the United States, commonly known as the Bering Sea claims. It is scarcely necessary to do more than to refer to the arguments submitted before this tribunal on behalf of the English Government for the most complete and exhaustive review of all the decisions upon the subject.

The English Government contended for the rule as claimed in the present case. An examination of the awards made in certain cases before the Bering Sea Commission leaves no room for doubt that in these cases at least the Commission adopted the rule as contended for by the English Government, and as herein stated. For instance, in case No. 4 the *Favorita* the award was $3,202. The claim was $6,202, of which $5,600 was for the value of the estimated earnings from catch. The interest of Alexander McLean, one-half, was thrown out by the Commission, reducing this claim to $2,800. The item of $200, time and expense of owners, was also thrown out as being a duplicate, and thus the claim of $6,202 was reduced to $3,202, for which the award was made, and which included $2,800 belonging to the owner, not excluded for the estimated earnings of the vessel based upon an estimated catch. The same is true of the case of the *Alfred Adams*, where an award of $10,124 was made, one-half ownership being thrown out, and it appears that at least $8,428 must have been estimated for catch. The same is also true of No. 13, the *Juniata;* No. 14, *Pathfinder;* No. 15, *The Black Diamond;* No. 16, *The Lily* and others.

If there were any doubt of this, it is relieved by such cases as No. 14, the *Triumph*, where the sole claim was for loss of catch. In the case of the *Triumph*, No. 14, not No. 11 for the same vessel, the award was $15,500. The original claim was for $19,624, of which $250 was for legal and other expenses, $19,424 being for balance of estimated catch of 2,500 skins, at $8 each. It was admitted that the *Triumph* had transshipped her part of her season's catch before entering Bering Sea on or about July 4. A considerable part of the season had already therefore elapsed, and it was reasonable to suppose that she had taken a fifth part of her probable catch before entering Bering Sea. Thus 2,000 skins would remain to be taken to make up the season's work of 2,500 skins. She had on board 72 skins when taken, leaving 1,928 skins to be taken to make up the 2,000. One thousand nine hundred and twenty-eight skins at $8 would amount to $15,424, and the award was for $15,450, as has been said. There is no possible escape from the demonstration which this case affords, that this was the rule adapted by the Bering Sea Commission, and a careful examination of each case shows that the rule was universally applied.

It is believed that the principle that an agent of a government is not rightfully, upon the mere suspicion of an act of trespass, enter upon a peaceably engaged ship, sailing under the flag of a friendly nation, and by force of arms enroll the citizens or subjects of a friendly nation into the public service of that government against their wills and oblige them to navigate one of that government's national ships will not be disputed. Hall, citing Bluntschli, says (International Law, Fourth Edition, Part II, Chap. IV, p. 216):

It is not permissible to enroll aliens, except with their own consent, in a navy intended to be used for ordinary national or political objects.

Such an act is an unwarrantable aggression not only upon the flag

of the friendly nation but of usurpation of authority over the citizens of another nationality wholly at variance with the rights of the individuals, and which no government would attempt to practice upon *terra firma*.

The act of compulsion over the crew of the *Cape Horn Pigeon* in taking them from their own ship and by force of arms obliging them, under protest, to navigate a Russian vessel into port, must be considered as, apart from any right or want of it to seize the vessel, a grave infraction of their natural rights. As American citizens no official of the Russian Government could by right compel them against their wills to enter into the service, even temporarily, of the Russian Government. And in doing so the commander of the Russian cruiser laid his Government open to a just claim for damages in excess of the mere value of the labor performed. The fact that these seamen, unprovided with any competent counsel to advise them of their rights, agreed at Vladivostok to accept the mere value of the labor performed in acquittance of any claim for this arbitrary act of impressment should not be permitted to prejudice their claims not only for the services performed but for indemnity for the injury to their national pride and for the violation of their personal liberty.

Futhermore, these men were landed on the beach at Vladivostok and left unprovided for either as regards food or shelter, nor was any suitable provision offered them, so that they were compelled to take refuge in the squalid quarters of a Chinaman significantly called "Cheap John." It is claimed by the Russian Government that quarters were offered them in the jail. Such a lodgment, if it was in fact offered them, can hardly be deemed as suitable or adequate for self-respecting and innocent citizens of a friendly nation, innocent of any wrong, who have been brought to a distant port and compelled to await in enforced idleness permission to resume their occupation. It is confidently believed that full indemnity will be allowed these men for both these wrongs in the final award.

In cases of this nature the principle of allowing a fair rate of interest upon the award is so universally admitted as to preclude the necessity of argument upon the subject. In his award in favor of the *John S. Bryan* for the payment of interest upon the amount of indemnity due from the Brazilian Government the arbitrator stated: "The principle on which this sum is awarded is one which has long been settled."

Among the many cases in which tribunals of arbitration have allowed interest in their awards may be cited the following:

The commission under the treaty of 1794, between the United States and Great Britain, allowed interest on all claims.

In the Chinese indemnity arbitration the commission allowed interest at the rate of 12 per cent.

The decisions of the American and British claims commission under the treaty of May 8, 1871, included interest in their awards with a very few exceptions. The Geneva tribunal of arbitration upon the Alabama claims, the dissenting opinion of Sir Alexander Cockburn shows that interest at the rate of 6 per cent was allowed in the award.

So also in the arbitration of the claims of the United States against Mexico and against Brazil.

In the case of the *Costa Rica Packet* the distinguished arbitrator allowed the claimants interest at the rate of 5 per cent.

In the recent arbitration (1897) between the United States of [illegible]ica and Great Britain, for claims growing out of the Bering seizures, interest was universally allowed.

Estimate of damages.

Item 1, expenses of owners due to seizure	[illegible]
Item 2, services of crew in navigating Russian schooner	[illegible]
Item 3, provisions consumed	[illegible]
Item 4, board of crew	[illegible]
Item 5, expenses of Captain Scullen	[illegible]
Item 6, loss of catch	[illegible]
Item 7, indemnity for impressment, at $1,000 each man	[illegible]
Item 8, interest for nine years, at 6 per cent	[illegible]
Total	[illegible]

Statement of claim.

1. Damages for loss of use of the vessel being measured by the average catch of the vessel, as follows:

8 whales, averaging 1,300 pounds bone, at $5		[illegible]
8 whales, averaging 100 barrels oil, at $13		[illegible]
		[illegible]
From which Captain Scullen deducted		1,800
		[illegible]
And credit product of 2 whales which he had taken—2 whales averaging 1,300 pounds bone, at $5	$13,000	
2 whales, averaging 100 barrels oil, at $13	[illegible]	
		[illegible]
Claim for net loss		[illegible]

GENERAL STATEMENT OF THE CLAIMS.

The number of whales already taken was the basis of Captain Scullun's estimate as his average catch. On this season alone [illegible] conditions in which the vessel was at the time of the seizure he could fairly have claimed a much larger number, but he knew that in [illegible] seasons he had taken 28 whales, making for those seasons an average of 7, and with this season's catch he could fairly raise the average [illegible] 8, making the deduction which he did of $1,800. The captains whose affidavits are presented put the average catch from 6 to 10 whales, and their evidence shows that Captain Scullun's estimate of 8 whales is reasonable.

The average amount of bone to a whale is based on the two whales which Captain Scullun had taken and for which credit is given. The evidence of the other captains shows that in their experience the whales which they had taken averaged a little less bone, between [illegible] and 1,200 pounds to a whale, but it is to be remembered that Captain Scullun was there on the ground and saw the whales, and the other are speaking of previous years. Captain Scullun's deduction brings it down to about 1,250 pounds, which, under all the circumstances, renders the claim well supported by the proof.

The average of 100 barrels of oil to a whale is proved by all the witnesses and is a well known average for this class of whales. The price of the bone is shown by the testimony of Mr. Wing and [illegible] Philips and the prices current in the market. Bone had ruled at

a pound during August. In September the price was affected by the catch and fell to $4.25 by the 1st of October. This was the October price and was maintained into November; but by the 1st of December the price further declined to $4. The seizure was on the 10th of September, and the claimants are entitled to the August price, which, so far as appears, rules until that date, for the testimony shows that the catch would have been sold "to arrive" at the market rate. The price of oil is entirely established by the testimony at $13 a barrel.

The claim is submitted, therefore, upon this item, as well established by the proof, at $45,000.

II. Indemnity for impressment of crew of American citizens into the naval service of Russia.

The claim is $1,000 per man for 31 men, $31,000.

This claim was not included in the claim presented by Captain Scullun. He was only a whaling master and not a lawyer versed in the rules of international law. His affidavit shows that he felt to the full the indignity which his flag had suffered and the outrage which had been perpetrated on himself and his crew. He shows in his testimony his just indignation at the invasion of his and their rights and the cruel treatment which they received not only at the time of the seizure, but from the abandonment at Vladivostok. They were told that they were to be provided for at the station house like common criminals, but even that refuge from hunger and exposure was denied them, and Captain Scullun had himself to provide quarters for them in a storehouse, and for days they were put off with one excuse and another until they were finally sent back to their own ship without even an apology, and there rested again safely under the flag of their country. The grounds of the claim, as based upon the well-known principles of international law, are set forth in the memorandum, and its allowance is asked in the name of the United States. There were 34, all told, on the *Cape Horn Pigeon*, and all but Captain Scullun, his steward, and boy (3) were put on board the schooner, making 31 officers and men. The rate per man has been fixed at $1,000 in the claim. It is not a subject of argument, and must be left to the justice of the arbitrator. It is not to be measured by the physical injury or even by the mental suffering of the men, but by what one great, rich, and powerful national should pay to another for an outrage which invaded not only the rights, but the self-respect of the sufferers. It is to be remembered that this was not the act of the respondent nation, but only that of its subjects, for which, however, international law holds it responsible. In such a case a nation, instead of resisting payment, should be eager to make full restitution.

III. Services of the crew in navigating the Russian schooner.

This was enforced labor, which was beneficial to the respondent nation, as it enabled them to bring both vessels to Vladivostok. The claim is at the rate of $10 a day for the officers and $5 a day for the men, thus:

Officers, 9, at $10 a day for six days	$540
Men, 22, at $5 a day for six days	660
Total	1,200

While the rate per day is more than such men would ordinarily earn, it is not excessive under the circumstances. It may be fairly viewed as analagous to salvage.

IV. The other items are these:

Provisions on the *Cape Horn Pigeon* consumed by the 2 Russian officers and 12 Russian men on the voyage to Vladivostok, $200.

The voyage lasted nine days, as Captain Scullun testifies that the schooner arrived three days before the ship.

Board of crew at Vladivostok, $210. This covered the support of 9 officers and 22 men for fourteen days, $50. At the time Captain Scullen made his claim at Vladivostok the last two sums had to be estimated. The exact figures are found in Mr. Wing's testimony, the first being a part of the ($268.46 plus $17.04) $285.50 paid Cheap Jack, and the latter a part of Captain Scullun's board bill of $42 and carriage and boat hire of $30.

V. Amount claimed for general expenses, $3,040.

Mr. Wing has annexed to his deposition a statement of his expense account due to the seizure, amounting to $1,519.47, from which should be deducted the $210 plus $50=$260, claimed in paragraph IV, and leaving $1,259.47 already expended, in addition to which a much larger sum than the balance of $1,780.53 will be needed to defray his expenses in the proof of this claim. As the Russian Government has admitted its liability from the beginning, and yet has never offered to pay even an approximately fair compensation for the claim covering that of the owners, officers, and crew, both private and international law require that an allowance should be made to cover the claimant's expenses, in order that he may have "*restitutio in integrum.*"

VI. Interest.

As shown in the memorandum, interest is to be allowed at the rate of 6 per cent per annum from the date of seizure. The decision in the Bering Sea cases, cited in the memorandum, exhausts the law upon this subject and obviates the need of argument. The commission say in their award—

> The rate of interest awarded by us is 6 per cent per annum, being the [illegible] rate at Victoria, British Columbia, during the period could, but being less than the current rate thereat.

And upon each award the interest was figured as a separate item.

Thus, as to the claim of the vessel *Dolphin*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say, $31,484 with interest from September 10, 1887, until this day, amounting to the sum of $19,399.38, and making a total of principal and interest of the sum of $50,883.38.

Of the gross award of $473,151.26 paid by the United States, $172,962.35 was for interest.

Summary of claim.

Item I, as stated	[illegible]
Item II, as stated	[illegible]
Item III, as stated	[illegible]
Item IV, as stated	[illegible]
Item V, as stated	[illegible]
	[illegible]

Together with interest thereon from September 10, 1892, to the date of the award at the rate of 6 per cent per annum.

[illegible] during August. In September the price was affected by the [illegible] and fell to $4.25 by the 1st of October. This was the October price and was maintained into November; but by the 1st of December the price further declined to $4. The seizure was on the 10th of September, and the claimants are entitled to the August price, which, so [illegible], rules until that date, for the testimony shows that the [illegible] would have been sold "to arrive" at the market rate. The price [illegible] clearly established by the testimony at $13 a barrel.

The claim is submitted, therefore, upon this item, as well established by the proof, at $45,000.

II. Indemnity for impressment of crew of American citizens into the [illegible] service of Russia.

The claim is $1,000 per man for 31 men, $31,000.

This claim was not included in the claim presented by Captain Scullun. He was only a whaling master and not a lawyer versed in the rules of international law. His affidavit shows that he felt to the full the indignity which his flag had suffered and the outrage which had been perpetrated on himself and his crew. He shows in his testimony his just indignation at the invasion of his and their rights and the cruel treatment which they received not only at the time of the seizure, but from the abandonment at Vladivostok. They were told that they were to be provided for at the station house like common criminals, but even that refuge from hunger and exposure was denied them, and Captain Scullun had himself to provide quarters for them in a storehouse, and for days they were put off with one excuse and another until they were finally sent back to their own ship without even an apology, and there rested again safely under the flag of their country. The grounds of the claim, as based upon the well-known principles of international law, are set forth in the memorandum, and its allowance is asked in the name of the United States. There were 31, all told, on the *Cape Horn Pigeon*, and all but Captain Scullun, his steward, and boy (3) were put on board the schooner, making 31 officers and men. The rate per man has been fixed at $1,000 in the claim. It is not a subject of argument, and must be left to the justice of the arbitrator. It is not to be measured by the physical injury or even by the mental suffering of the men, but by what one great, rich, and powerful national should pay to another for an outrage which invaded [illegible] only the rights, but the self-respect of the sufferers. It is to be remembered that this was not the act of the respondent nation, but only that of its subjects, for which, however, international law holds it responsible. In such a case a nation, instead of resisting payment, should be eager to make full restitution.

III. Services of the crew in navigating the Russian schooner.

This was enforced labor, which was beneficial to the respondent nation, as it enabled them to bring both vessels to Vladivostok. The claim is at the rate of $10 a day for the officers and $5 a day for the men, thus:

Officers, 9, at $10 a day for six days	$540
Men, 22, at $5 a day for six days	660
Total	1,200

While the rate per day is more than such men would ordinarily earn, it is not excessive under the circumstances. It may be fairly viewed analogous to salvage.

1,3,2,12

IV. The other items are these:

Provisions on the *Cape Horn Pigeon* consumed by the 2 Russian officers and 12 Russian men on the voyage to Vladivostok, $200.

The voyage lasted nine days, as Captain Scullun testifies that the schooner arrived three days before the ship.

Board of crew at Vladivostok, $210. This covered the support of 9 officers and 22 men for fourteen days, $50. At the time Captain Scullen made his claim at Vladivostok the last two sums had to be estimated. The exact figures are found in Mr. Wing's testimony, the first being a part of the ($268.46 plus $17.04) $285.50 paid Cheap Jack, and the latter a part of Captain Scullun's board bill of $42 and carriage and boat hire of $30.

V. Amount claimed for general expenses, $3,040.

Mr. Wing has annexed to his deposition a statement of his expense account due to the seizure, amounting to $1,519.47, from which should be deducted the $210 plus $50=$260, claimed in paragraph IV, and leaving $1,259.47 already expended, in addition to which a much larger sum than the balance of $1,780.53 will be needed to defray his expenses in the proof of this claim. As the Russian Government has admitted its liability from the beginning, and yet has never offered to pay even an approximately fair compensation for the claim covering that of the owners, officers, and crew, both private and international law require that an allowance should be made to cover the claimant's expenses, in order that he may have "*restitutio in integrum.*"

VI. Interest.

As shown in the memorandum, interest is to be allowed at the rate of 6 per cent per annum from the date of seizure. The decision in the Bering Sea cases, cited in the memorandum, exhausts the law upon this subject and obviates the need of argument. The commission say in their award—

> The rate of interest awarded by us is 6 per cent per annum, being the statutory rate at Victoria, British Columbia, during the period could, but being less than the current rate thereat.

And upon each award the interest was figured as a separate item.

Thus, as to the claim of the vessel *Dolphin*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say, $31,484 with interest from September 10, 1887, until this day, amounting to the sum of $19,399.38, and making a total of principal and interest of the sum of $50,883.38.

Of the gross award of $473,151.26 paid by the United States, $172,962.35 was for interest.

Summary of claim.

Item I, as stated	$45,000
Item II, as stated	31,000
Item III, as stated	1,200
Item IV, as stated	460
Item V, as stated	3,040
	80,700

Together with interest thereon from September 10, 1892, to the date of the award at the rate of 6 per cent per annum.

No. 5525.—United States of America.

DEPARTMENT OF STATE.

To whom these presents shall come, greeting:

I certify that the documents hereto annexed are true copies from the files of this Department.

In testimony whereof I, John Hay, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this 1st day of September, A. D. 1900, and of the Independence of the United States of America the one hundred and twenty-fifth.

[Seal of the Department of State, United States of America.]

JOHN HAY.

(For certification of Exhibits A, B, and C.)

EXHIBIT A.

OFFICE OF THE COLLECTOR OF CUSTOMS,
Port of New Bedford, Mass., March 7, 1893.

I certify that the records of this office show that the following-named persons are owners of the bark *Cape Horn Pigeon*, of New Bedford, on the 1st day of July,

J. and W. R. Wing, of New Bedford, Mass	20/64
Thomas Scullen, of New Bedford, Mass	4/64
Thomas M. Hart, of New Bedford, Mass	2/64
Estate of A. H. Seabury, of New Bedford, Mass	10/64
[illegible] Wing, of New Bedford Mass	2/64
[illegible] Potter, of Dartmouth, Mass	11/64
William Potter, 2d, of Dartmouth, Mass	8/64
Estate of Michael Baker, 3d, of Dartmouth, Mass	4/64
George W. Collins, of Dartmouth, Mass	1/64
[illegible] Church, of Gosnold, Mass	2/64
	64/64

Given under my hand and official seal.
[SEAL.]

JAMES C. HITCH,
Deputy Collector.

EXHIBIT B.

[Registry No. [illegible] Official number. Numerals 16 11, letters H. D. L. J.]

Copy of certificate of registry.

In pursuance of Chapter I, Title XLVIII, "Regulation of commerce and navigation," Revised Statutes of the United States, William R. Wing, of New Bedford, State of Massachusetts, having taken out and subscribed the oath required by law, and having sworn that he, 9/64, together with Joseph Wing, 9/64; Thomas M. Hart, 2/64; Jonathan Bourne, 2/64; John Wing, 2/64; Robert Allan, 4/64; A. H. Seabury, [illegible] 10/64; William Potter, 2d, of Dartmouth, 8/64; Edward F. Potter, 8/64; [illegible], 1/64; estate of Michael Baker, 3d, 4/64; estate of B. B. Church, of [illegible], all of State aforesaid; and Abner Potter, jr., of Portsmouth, Rhode [illegible], are the only owners of the vessel called the *Cape Horn Pigeon*, of New Bedford, whereof J. S. Layton is at present master, and is a citizen of the United [illegible] and that the said vessel was built in the year 1854 at Dartmouth, Massachusetts, as appears by permanent register No. 2, issued at the port of New Bedford [illegible] 1, 1894, now surrendered, new owners in part; and said register having certified that the said vessel has two decks and three masts, and that her length is

100 and no tenths feet, her breadth 24 feet and 9 tenths, her depth 14 feet and 4 tenths, her height feet and tenths; that she measures 201 tons and 42 hundredths, viz.:

	Tons.
Capacity under tonnage deck	207.22
Capacity between decks above tonnage deck	
Capacity of inclosures on the upper deck, viz	4.80
Gross tonnage	212.02
Deductions under section 4153, Revised Statutes, as amended by act of August 5, 1892:	
Total deductions, crew space	10.60
Net tonnage	201.42

The following-described spaces, and no others, have been omitted, viz:

* * * * * * *

and that she is a barque, has a billet head and a square stern; and the said Wm. R. Wing having agreed to the description and admeasurement above specified, and sufficient security having been given according to law, said vessel has been duly registered at the port of San Francisco.

Given under my hand and seal at the port of San Francisco this 30th day of November, in the year 1887.

[Place for seal of naval officer.]

STUART TAYLOR.
[Place for seal of collector.]
JNO. S. HAGER,
Collector of Customs.
CHARLES B. MORTON,
Commissioner of Navigation.

[Seal of the United States Treasury.]

DISTRICT OF SAN FRANCISCO, PORT OF SAN FRANCISCO, COLLECTOR'S OFFICE.

I hereby certify the within to be a true copy of the original on record in this office. Given under my hand and seal this 28th day of February, 1893.

(Signed) M. WEBBER, *Collector.* [SEAL.]

(Cat. No. 335.)—Registry of *Cape Horn Pigeon.*

Copy of certificate of registry:

No..... Memorial of J. and W. R. Wing,
of the.....Agents *Cape Horn Pigeon*,
called the.....;

EXHIBIT C.

UNITED STATES OF AMERICA.

[Sections 4573, 4574, and 4575, Revised Statutes—Cat. No. 477.]

Crew list—List of persons composing the crew of the bark Cape Horn Pigeon, of New Bedford, whereof Thomas Scullan is master, bound for a whaling voyage.

Names.	Places of birth.	Places of residence.	Of what country citizens or subjects.	Description of their persons.				
				Age.	Height.	Complexion.	Hair.	Eyes.
					Ft. In.			
Thomas Scullun	Massachusetts	San Francisco	United States	41	5 6	Light	Light	
N. H. Young	Rhode Island	do	do	45	5 8	Dark	Dark	
Antonio Margarido	Western Islands.	do	do	32	5 6	Light	Light	
George H. Peckham	Massachusetts	do	do	28	5 8	do	do	
William Griffith	Rhode Island	do	do	32	5 7	do	do	
Charles F. Koch	Massachusetts	do	do	42	5 8	Dark	Dark	
Cornelio Eustagio	Guam	do	Spain	25	5 6	Light	Light	
Samuel McIntyre	Scotland	do	United States	28	5 6	Dark	Black	

List of persons composing the crew of the bark Cape Horn Pigeon, etc.—Cont'd.

	Places of birth.	Places of residence.	Of what country citizens or subjects.	Description of their persons. Age.	Height.	Complexion.	Hair.	Eyes.
					Ft. In.			
[illegible]	Cape de Verde Island	San Francisco	Portugal	25	5 8	Dark	Dark	
[illegible]	do	do	do	26	5 6	do	do	
[illegible]	East Indies	do	England	29	5 5	do	do	
[illegible]	Guam	do	Spain	24	5 4	do	do	
[illegible]	do	do	do	21	5 5	do	do	
[illegible]	do	do	do	24	5 5	do	do	
[illegible]	Germany	do	United States	27	5 4	do	do	
[illegible]	Denmark	do	Denmark	42	5 7	Light	Light	
[illegible]	Guam	do	Spain	21	5 5	Dark	Dark	
[illegible]	do	do	do	19	5 5	do	do	
[illegible]	do	do	do	25	5 9	do	do	
[illegible]	do	do	do	21	5 5	do	do	
[illegible]	Madagascar	do	do	28	5 5	do	do	
[illegible]	West Indies	do	England	25	5 6	Colored	Black	
[illegible]	Guam	do	Spain	23	5 5	Dark	Dark	
[illegible]	do	do	do	21	5 7	do	Black	
[illegible]	do	do	do	21	5 10	do	Dark	
[illegible]	Australia	do	England	40	5 7	Light	Light	
[illegible]	Cape de Verde Island	San Francisco	Portugal	30	5 7	Colored	Black	
[illegible] Shopley	Pennsylvania	do	United States	29	5 10	Light	Light	
[illegible]	Guam	do	Spain	22	5 7	Dark	Dark	
[illegible]	Java	do	Holland	40	5 6	do	do	
[illegible]	Massachusetts	do	United States	56	5 5	Light	Gray	
[illegible]	Germany	do	do	24	5 8	do	Light	
[illegible] Johnson	Sweden	do	Sweden	21	5 7	do	Dark	
[illegible] January	Cape de Verde Island	do	Portugal	24	5 10	Dark	do	
[illegible] Phillips	Western Islands	do	do	21	5 7	do	do	
Arthur H. Taylor	England	do	United States	29	6 0	do	do	
[illegible] McDonald	Vermont	do	do	21	5 8	do	do	
[illegible] McDonald	Massachusetts	do	do	25	5 7	Light	Light	
[illegible]	Pennsylvania	do	do	27	5 8	do	do	
[illegible]	Germany	do	do	24	5 9	do	do	
[illegible]	Scotland	do	England	23	5 6	do	do	
[illegible]	Germany	do	Germany	30	5 6	do	do	
[illegible]	Guam	do	Spain	23	5 7	Dark	Dark	
[illegible]	Colorado	do	United States	25	5 6	Light	do	

DISTRICT AND PORT OF SAN FRANCISCO,
COLLECTOR'S OFFICE,
February 28, 1893.

I hereby certify the above to be a true copy of the original on file in this office.

M. WEBBER, *Deputy Collector.*
(Initialed.) A. W. B.

I, Thomas Scullan, master of the said bark *Cape Horn Pigeon*, do solemnly, sincerely, and truly swear that the within list contains the names of all the crew of the said bark, together with the places of their birth and residence, as far as I can ascertain the same.

THOMAS SCULLUN, *Master.*

PORT OF SAN FRANCISCO.

Sworn to and subscribed this 7th day of December, 1891, before me.

M. WEBBER,
Deputy Collector.

[General customs regulations of 1884, art. 192.]

I do certify that the within is a true copy of the list of the crew of the bark *Cape Horn Pigeon*, New Bedford, whereof Thomas Scullan is master, taken from the original on file in this office.

Given under my hand and seal of office, at the custom-house, this 7th day of [illegible] in the year of our Lord 1891.

M. WEBBER,
Deputy Collector.

No. 5528.—UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I certify that the documents hereto annexed are true copies from the files of this Department.

In testimony whereof, I, John Hay, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this 1st day of September, A. D. 1900, and of the independence of the United States of America the one hundred and twenty-fifth

JOHN HAY.

[Seal of the Department of State of the United States of America.]

EXHIBIT D.

Whalemen's shipping paper.

1. It is agreed between the owner, master, seamen, and mariners of the bark *Cape Horn Pigeon*, now bound from the port of San Francisco on a whaling, walrusing, and trading voyage to the North Pacific and Arctic oceans, or elsewhere, as the master may direct. Term of service not to exceed twelve (12) calendar months. Officers and crew to pay their respective proportions of freight on whatever catch may be shipped by some other vessel or vessels. Officers and crew to remain by the vessel eight (8) days after her arrival at her final port of discharge, or in default to pay two (2) dollars for each and every day of absence. Interest to be charged on all money advanced at the rate of fifteen (15%) per cent per annum. Officers and crew not to participate in trade.

That, in consideration of the share against each respective seaman or mariner's name hereunder set, they severally shall and will perform the above-mentioned voyage; and the said owner and master do hereby agree with and hire the said seamen or mariners for the said voyage at such shares, to be paid pursuant to this agreement.

2. And they, the said seamen or mariners, do severally hereby promise and oblige themselves to do their duty, and obey the lawful commands of the officers on board said bark or boats thereunto belonging, as become good and faithful seamen or mariners, while cruising for whales, and at all places where the said bark shall put in or anchor at during the said voyage; to use their best endeavours to obtain a cargo of oil; and for the preservation of the vessel and cargo; and not to neglect or refuse doing their duty by day or night; and that they shall not go out of said bark on board any other vessel or be on shore, under any pretence whatever, until the aforesaid voyage be ended and the vessel discharged of her loading without leave first obtained of the captain or commanding officer on board; that in default thereof he or they shall be liable to all the penalties and forfeitures mentioned in the marine law, enacted for the government and regulation of seamen in the merchant service, it being understood that said forfeiture shall be estimated according to his or their respective shares of the voyage and the length of the same conjointly.

3. And it is further agreed by all the parties to this contract that such regulations as a just regard to the good order, effectual government, health, and moral habits of the officers and men shall be established and observed on board the said vessel. And to insure proper attention to this important object it shall be the duty of the officer having the care of the log book to note therein daily all flagrant breaches of the same. It shall especially be his duty to record all instances of drunkenness, all cases of absence from the said bark by any officer or seaman, with or without permission, after sunset or beyond the time prescribed for their absence; every instance of absence by any officer or seaman through the night, whether on shore or on board of any other vessel; every instance of the introduction of any woman or women into the ship for licentious purposes; every instance of disability for ship's duty which may occur, with the cause of it—if occasioned by sickness or infirmity, the nature and origin of the same, if known, to be particularly stated, especially if it be the consequence of their own misconduct. And in the case of the officer who may usually

[illegible] the log book being implicated in any of the misdemeanors or disabili- [illegible] it shall be the duty of the master to make, or cause to be [illegible] an entry of the same on the log book. And it shall be the [illegible] that a proper record is kept therein of all the matters men- [illegible] according to its true intent and meaning.

[illegible] having charge of the watch on deck for the time being shall be [illegible] maintenance of the regulation in regard to the admission of [illegible] any setting on board unperceived they shall forthwith be [illegible] if not able to do so, the case shall be immediately reported to [illegible] commanding officer on board, whose duty it shall be to enforce their [illegible] On the failure of any officer on this part of his duty, either [illegible] negligence, each and every officer so failing shall forfeit twenty [illegible] such offense; and any other officer or seaman who shall abet any [illegible] or refuse, when lawfully called upon to aid in sustaining [illegible] proved to have had a criminal intercourse with any such woman or [illegible] board, shall forfeit for every such offense five days' pay; for every instance [illegible] two days' pay shall be forfeited, and a similar forfeiture shall take [illegible] that any officer or seaman shall be off duty from sickness or dis- [illegible] intemperance or licentiousness; the forfeitures in all these cases to [illegible] in the second article, and to go to the use of the owners of said bark.

All expenses which may be necessarily incurred during the voyage, with direct [illegible] to any of the misdemeanors or disabilities enumerated in the third article, [illegible] any attempt at desertion or other disobedient and mutinous conduct, shall be [illegible] to the individual or individuals by reason of whom they may have been [illegible]

It is further agreed that if any officer or seaman, after a fair trial, if his abilities [illegible] position shall be judged by the master incompetent or indisposed to the [illegible] charge of the duties of his station, the master shall have a right to displace [illegible] and substitute another in his stead; a corresponding reduction of the lay of such [illegible] or seaman, with reference to the duty which he may thereafter perform, [illegible] to take effect; and a reasonable increase of the lay of the individual who [illegible] upon be promoted to a higher station shall be made on the final adjustment [illegible] voyage.

It is understood and agreed that if any officer or seaman shall be prevented by [illegible] or death from performing the voyage, his legal representatives shall be [illegible] to such part of the whole amount of his stipulated share as the time of his [illegible] on board shall be of the whole term of the voyage.

It is further agreed that whatever apparel, furniture, or stores belonging to said [illegible] given in charge by the master to any officer or seaman shall be [illegible] by him; and in case anything should be lost or damaged through his [illegible] or neglect it shall be made good to the owners by such officer or seaman.

[illegible] whatever officer or seaman the master shall appoint for the duty shall take [illegible] any portion of the cargo or ship's stores required to be landed or brought [illegible] any boats or lighter, and faithfully perform the services assigned, and [illegible] said cargo or stores are safely landed and delivered, or brought on board [illegible] vessel, as the case may be.

Each and every officer and seaman who shall have well and truly performed [illegible] mentioned voyage, complied with the regulations and duties herein [illegible] and committed no dishonest or unlawful acts, shall, on the return of said [illegible] to the port of San Francisco, be entitled to be, and shall be, settled with and [illegible] in San Francisco his share of the catch of said vessel at the following rates: [illegible] at 30 cents per gallon; sperm oil at 40 cents per gallon; whalebone (in [illegible] the total catch of the whole whaling fleet of vessels sailing from or arriving at [illegible] the Pacific coast for the season in the Arctic shall exceed 200 whales) at [illegible] per lb., but in case said total catch shall not exceed 200 whales, then at [illegible] per lb; said settlement to be made for oil at the above named rates, and [illegible] per lb., as soon after the return of the ship as the quantity of her [illegible] can be ascertained, and the 25 cents per lb. in addition thereto as soon as [illegible] ascertained that the total catch of the whole of said fleet does not exceed [illegible]

[illegible] testimony of our assent, consent, and agreement faithfully to perform the [illegible] and obligations implied in the preceding articles, and an acknowledg- [illegible] being voluntary and without any compulsory or clandestine means [illegible] used, we have each and everyone of us severally hereunto affixed our names [illegible] the day and year against them respectively written. And it is hereby understood [illegible] mutually agreed, by and between the parties aforesaid, that they, the said sea- [illegible] mariners, will render themselves on board the said vessel on or before, as

ordered by the master, ———, the — day of ——, at — o'clock, in the ——— noon.

No distilled spirituous liquor will be put on board the vessel by the owner, except for strictly medical use; and by their signatures the other parties to this contract pledge themselves not to take any of those articles with them, as their private stores or for traffic, either from this port or from any other port or place where they may be during the voyage. And in case of a violation of this pledge by the master, or any officer or seaman, his entire share of the voyage shall be thereupon forfeited to the use of the owners of the said vessel.

Shipping paper.—"Cape Horn Pigeon."

Date of entry.	Names.	Station.	Advances.	Witness to signing.	Lay shares.
1891					
Nov 7	1. Thomas Scullun	Captain		L. W. Johnston	As per agreement.
7	2. W. H. Young	First mate		do	1/22 One twenty-second.
11	3. Antonio Margaido.	Second mate		do	1/28 One twenty-eighth.
13	4. Geo. H. Peckham	Third mate		do	1/45 One forty-fifth.
13	5. Wm. H. Griffiths.	Fourth mate		do	1/60 One sixtieth.
12	6. Chas. F. Koch	Cooper and carpenter.		do	1/50 One fiftieth.
11	7. Cornelio Eustagio	Boat steerer	$175.00 30.00	do do	1/80 One eightieth.
12	8. Saml. McIntyre	do	17.00 150.00	do do	1/80 One eightieth.
12	9. Peter (his x mark) Lawton.	do	125.00 54.50	do do	1/80 One eightieth.
13	10. Thomas Oliveira.	do	100.00	do	1/85 One eighty-fifth.
3	11. Nicolas (his x mark) Porter.	Steward and cook	120.00	do	1/90 One-ninetieth.
12	12. Jose Torres	Steward	85.00	do	1/100 One one hundredth.
12	13. Joe (his x mark) Santos.	Steerage boy	25.00	do	1/170 One one hundred and seventieth.
11	14. Felix de Castro	Seaman	50.00	do	1/170 One one hundred and seventieth.
14	15. Marx Pletz	Prev. boat steerer	65.00	do	1/150 One one hundred and fiftieth.
4	16 Peter Johnson	Sailmaker	75.00	do	1/130 One one hundred and thirtieth.
3	17. Joe Costa	Seaman	50.00	do	1/170 One one hundred and seventieth.
4	18. Jose Guinata	do	50.00	do	1/170 One one hundred and seventieth.
5	19. John (his x mark) Sablan.	Seaman	50.00	do	1/170 One one hundred and seventieth.
5	20. Ben (his x mark) Siguino.	do	50.00	do	1/170 One one hundred and seventieth.
5	21. Jack (his x mark) Kanaka.	do	50.00	do	1/170 One one hundred and seventieth.
5	22. Charles Smith	do	60.00	do	1/160 One one hundred and sixtieth.
11	23 Ben (his x mark) Cantanego.	do	50.00	do	1/170 One one hundred and seventieth.
11	24. Bernab (his x mark) Ascensia	do	50.00	do	1/170 One one hundred and seventieth.
11	25. Mariano (his x mark) Marpesa	do	50.00	do	1/170 One one hundred and seventieth.
12	26. P. Maguire	do	60.00	do	1/160 One one hundred and sixtieth.
12	27. John Peters	do	70.00	do	1/150 One one hundred and fiftieth.
13	28. John Shopley	Prev. boat steerer	60.00	do	1/150 One one hundred and fiftieth.

Shipping papers. "Cape Horn Pigeon."

Date of entry		Names.	Station.	Advances.	Witness to signing.	Lay shares.	
		[illegible]	Seaman	$60.00	L. W. Johnston.	1/160	One one hundred and sixtieth.
	13	[illegible] Joseph (his x mark) [illegible]	do	50.00	do	1/170	One one hundred and seventieth.
		[illegible]	Cooper and carpenter		do	1/50	One-fiftieth.
	12	[illegible] (his x mark) [illegible]	Seaman	50.00	do	1/160	One one hundred and sixtieth.
		[illegible]	Green hand	50.00	do	1/170	One one hundred and seventieth.
	54	Manuel January [illegible]	Seaman	80.00	do	1/160	One one hundred and sixtieth.
	50	Manuel (his x mark) Phillips	do	50.00	do	1/170	One one hundred and seventieth.
Dec.	56	Arthur H. Taylor	do	55.00	do	1/150	One one hundred and fiftieth.
	57	Wm. McDonald	Blacksmith and green hand.	50.00	do	1/165	One one hundred and sixty-fifth.
		John McDonald	Green hand	50.00	do	1/170	One one hundred and seventieth.
7	39	Albert Hilt	do	50.00	do	1/170	One one hundred and seventieth.
	40	H. Smith	do	50.00	do	1/170	One one hundred and seventieth.
7	41	J. McGregor	do	50.00	do	1/170	One one hundred and seventieth.
7	42	Fred Wick	do	50.00	do	1/170	One one hundred and seventieth.
		Joe (his x mark) Mendolo	do	50.00	do	1/170	One one hundred and seventieth.
7	44	W. (his x mark) [illegible]	Seaman	50.00	do	1/170	One one hundred and seventieth.

DISTRICT AND PORT OF SAN FRANCISCO,
COLLECTOR'S OFFICE,
February 28, 1893.

I hereby certify the above to be a true copy of the original on file in this office.

M. WEBBER, *Deputy Collector.*
(Initialed) A. W. B.

No. 5527.—UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I certify that the documents hereto annexed are true copies from the files of this Department. In testimony whereof I, John Hay, Secretary of State for the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this 1st day of September, A. D. 1900, and of the Independence of the United States of America the one hundred and twenty-fifth.

JOHN HAY.

[Seal of the Department of State of the United States of America.]

(For certification of Exhibits F and G.)

1, 3, 2, 16

EXHIBIT E.

SAN FRANCISCO, *October 31, 1891.*

I hereby agree with J. and W. R. Wing to go master of the bark *Cape Horn Pigeon* on her next contemplated season, to sail from this port by Dec. 1st, 1891, to go east and return as above and join said bark at this port, the said Wings to pay one-half ($\frac{1}{2}$) round trip ticket to Boston and back to this port, the other half to be charged to me. Compensation to be the ($\frac{1}{12}$) lay in net proceeds of voyage.

THOMAS SCULLUN.

Approved:
J. and W. R. WING.

I hereby certify that the above is a true and exact copy of the original contract, letter for letter and figure for figure.

[SEAL.] WM. F. CASWELL, *Notary Public.*

EXHIBIT F.

THE UNITED STATES OF AMERICA.

Clearance of vessel to a foreign port.

DISTRICT OF SAN FRANCISCO, PORT OF SAN FRANCISCO.

These are to certify all whom it doth concern that Thomas Scullun, master or commander of the American bark *Cape Horn Pigeon*, burden 201 tons or thereabouts, mounted with ——— guns, navigated with 44 men, built and bound for whaling voyage, having on board stores, hath here entered and cleared his said vessel, according to law.

Given under our hands and seals, at the custom-house of San Francisco, this 7th day of December, 1891, and in the one hundred and fifteenth year of the Independence of the United States of America.

W. E. HAMILTON, *Deputy Naval Officer.*
M. WEBBER, *Deputy Collector.*

DISTRICT AND PORT OF SAN FRANCISCO, COLLECTOR'S OFFICE,
February 28, 1893.

I hereby certify the above to be a true copy of the original on file in this office.

M. WEBBER, *Deputy Collector.*

EXHIBIT G.

OUTWARD FOREIGN MANIFEST.

[C. D. Bunker & Co., custom-house brokers.]

Report and manifest of the cargo laden at the port of San Francisco on board the bark Cape Horn Pigeon, whereof Thomas Scullan is master, bound for a whaling voyage, December 7, 1891.

Marks.	Numbers.	Packages and contents.	Quantities—pounds, gallons, etc.	No. 1. Value of domestic merchandise.	No. 2. Value of foreign merchandise free.	No. 3. Value of foreign merchandise from bonded warehouse.	No. 4. Value of foreign merchandise not from bonded warehouse, which has paid duties.	No. 5. Value of foreign merchandise on the passage (in transitu) from one foreign country to another.	To be landed at—
.....	.....	Ballast stores and whaling gear.	.....	.....	.....	.....		.....	.....

DISTRICT AND PORT OF SAN FRANCISCO,
COLLECTOR'S OFFICE, *February 28, 1893.*

I hereby certify the above to be a true copy of the original on file in this office.

M. WEBBER, *Deputy Collector.*
(Initialed) A. W. B.

DISTRICT AND PORT OF SAN FRANCISCO.

I, Thomas Scullun, master or conductor of the bark *Cape Horn Pigeon*, bound from the port of San Francisco on a whaling voyage, do solemnly, sincerely, and truly [illegible] the manifest of the cargo on board the said bark, now delivered by me to [illegible] of this oath: that and subscribed with my name, contains, according to the [illegible] knowledge and belief, a full, just, and true account of all the goods, wares, [illegible] now actually laden on board the said vessel or vehicle, and of the [illegible] and if any other goods, wares, or merchandise shall be laden or put on [illegible] said bark previous to her departure from this port I will immediately report [illegible] to the collector.

[illegible] that I verily believe the duties on all foreign merchandise therein [illegible] have been paid or secured according to law, and that no part thereof is intended to be relanded within the United States, and that if by distress or other unavoidable accident it shall become necessary to reland the same I will forthwith [illegible] a just and true report thereof to the collector of customs of the districts wherein such distress or accidents may happen, and said cargo is truly intended to be used in whaling. So help me God.

THOMAS SCULLUN, *Master.*

Sworn to before me this 7th day of December, 1891.

M. WEBBER,
Deputy Collector of Customs

EXHIBIT I.

[Translation.]

No. 2187.] MINISTRY OF FOREIGN AFFAIRS,
ASIATIC DEPARTMENT, *June 12 (24), 1893.*

Mr. ENVOY: In reply to the letter which you had the goodness to address me, dated May 3 (15) last, I have the honor to communicate to you the following data upon the inquiry, made by a commission appointed by the commandant of the Pacific squadron, on the subject of the arrest of the *Cape Horn Pigeon*, flying the American flag, in the Sea of Okhotsk.

Lieutenant of the Imperial navy von Cube, commanding the English schooner *Maria*, seized for illegal sealing in Russian waters, encountered the *Cape Horn Pigeon* on the night of August 20 (September 10), 1892, at 46° 31′ north latitude, 146° 30′ longitude east. The latter having made signals which seemed to him suspicious, Lieutenant von Cube invited Captain Scullen, of the *Cape Horn Pigeon*, to come on board of his vessel. He declared that he was engaged in whaling in the Sea of Okhotsk, but an examination of the log book and charts caused Lieutenant von Cube to believe that the whaler in question had visited Aniva and Patience bays, where fishing is forbidden to foreign vessels, and decided him to take the *Cape Horn Pigeon* to Vladivostok in order to establish whether he had a right to navigate those waters.

You must admit, Mr. Envoy, that this version differs materially from that of Captain Scullun, according to which he had been arrested for having engaged in whaling in the Sea of Okhotsk, which he says Lieutenant von Cube considered closed to foreign whalers.

Nevertheless the commission of investigation to which this case was referred, while stating also that the *Cape Horn Pigeon* had navigated within Russian territorial waters, found no cause to order her confiscation. It was then admitted that the arrest of this vessel had been made as the result of a misunderstanding, and the vessel was returned to her owners without delay.

With regard to the indemnity claimed by the latter, it is sufficient to point to the figures $45,000 profit, representing the price of five whales, alleged to have been lost by the interruption of her voyage, to demonstrate the exaggerated estimate of Captain Scullen.

The remainder of his claims are as follows:

Remuneration of the officers and crew who had to follow the schooner *Cape Horn Pigeon* to Vladivostok	$1,000
2. Provisions which were on board	200
3. Support of the crew of the *Cape Horn Pigeon*	210
4. Expenses of Captain Scullen on land	50
5. Various expenses, such as cost of telegraphing, hire of boats and carriages, clerk hire, etc	3,040

This last point in particular requires the production of vouchers, in default of which the Imperial ministry of marine could by no means admit the justice of all its items. The said ministry supposes that in a general way, apart from this, the sum of $2,500 represents a just and sufficient indemnification for the real losses sustained by Captain Scullen and his crew by reason of the temporary detention of the *Cape Horn Pigeon.*

I will only mention in passing the allegation of Captain Scullun to the effect that the authorities at Vladivostok left him and his men, at the end of the affair, without lodging or food, Mr. Wurts, then chargé d'affaires of the United States, having himself done justice to this allegation in his letter of September 9/21, 1892. I confine myself to the statement that, according to the testimony of the superior authorities of the Navy, it was Captain Scullun himself who declined for himself and his crew the lodgings and food offered to them, according to custom, by the authorities at Vladivostok.

Please to accept, Mr. Envoy, the assurance of my most distinguished consideration.

CHISKINE.

To Mr. WHITE,
Envoy, etc.

EXHIBIT J.

VLADIVOSTOK, 798/133 8 11 35 N.

Bark *Cape Horn Pigeon*, of New Bedford, arrived here yesterday, having been seized by Russian naval officer commanding. Confiscated sealing vessel on September 10, 4 o'clock a. m.; ship was then in latitude 46° 30′, longitude 146° 35′, and 125 miles off Sagalien Island and 84 miles off Yetarup Island, cruising for whales. Boat came alongside from schooner, and officer demanded my papers and told me that ship was confiscated for whaling in Okhotsk Sea, which was closed. Officer and armed men then took possession of my ship, ordering my officers and crew to take the schooner to Vladivostok, which they did, and arrived here 15th instant, and were put ashore yesterday without food or shelter. United States steamer *Marion* has arrived here.

Please send instructions and advise Scullun, master.

Indorsed: United States minister, St. Petersburg.

EMBASSY OF THE UNITED STATES OF AMERICA,
St. Petersburg, Russia.

I, Herbert J. Hagerman, second secretary of the embassy of the United States of America, do hereby certify that I have compared the foregoing copy of a telegram with the original now on file in this embassy, and that the same is a correct tran cript therefrom and of the whole of said original.

In testimony whereof I have hereunto set my hand and affixed the seal of the mbassy of the United States this 17th day of February, in the year 1900.

[SEAL.] HERBERT J. HAGERMAN,
Second Secretary, United States Embassy.

EXHIBIT K.

LEGATION OF THE UNITED STATES,
St. Petersburg, September 9 (21), 1892.

YOUR EXCELLENCY: I have the honor to acquaint your excellency with the contents of a telegram received by me last night, as follows:

"Vladivostok, September 8. Bark *Cape Horn Pigeon*, of New Bedford," etc. (See telegram on file.)

I will be greatly obliged if your excellency will cause an investigation to be made into the circumstances of the seizure of the vessel above indicated for report to the United States Government.

In the meanwhile I beg your excellency to have the kindness to direct that proper help be extended by the authorities at Vladivostok to the master and crew of this vessel. I trust and believe that the description in the telegram of their condition, "without food or shelter," is an exaggeration, for it is not the custom of the Imperial authorities or of the Russian people to refuse assistance called for by per-

[illegible], no matter what may have placed them in the predicament. However [illegible] the name of humanity I most respectfully appeal to your excellency [illegible] be advanced to the persons in question.

[illegible],

GEORGE W. WURTS.

[illegible] M. CHICHKINE,
Adjoint, etc.

EMBASSY OF THE UNITED STATES OF AMERICA,
ST. PETERSBURG, RUSSIA.

I, Herbert J. Hagerman, second secretary of the embassy of the United States of [illegible] hereby certify that I have compared the foregoing copy of a note [illegible] the Imperial Russian ministry of foreign affairs by the legation of the [illegible] St. Petersburg, Russia, with the original as entered in the archives [illegible] and now on file, and that the same is a correct transcription of the [illegible] entered and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of this [illegible] 17th day of February, A. D. 1900.

[illegible]

HERBERT J. HAGERMAN,
Second Secretary, United States Embassy.

EXHIBIT L.

[Translation.]

No. 3166.] MINISTRY OF FOREIGN AFFAIRS,
ASIATIC DEPARTMENT,
September 19, 1892.

MR. CHARGÉ D'AFFAIRES:

In reply to the note which you have had the goodness to address to me, dated [illegible] of the current month, I hasten to inform you that the gerant of the ministry of marine has just announced to me the liberation of the American bark *Cape Horn Pigeon*.

The inquiry concerning the deposition of Captain Scullun, that the crew was landed and left without food or shelter, follows its legal course, and I shall not fail to communicate to you the result thereof.

Please to accept, Mr. Chargé d'Affaires, the assurance of my distinguished consideration.

CHICHKINE.

To Mr. WURTS, *Chargé d'Affaires, etc.*

No. 5526.—UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I certify that the documents hereto annexed are true copies from the files of this Department.

In testimony whereof I, John Hay, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this 1st day of September, A. D. 1900, and of the Independence of the United States of America the one hundred and twenty-fifth.

[Seal of the Department of State of the United States of America.]

JOHN HAY.

(For certification of Exhibits M, N, O, and H.)

EXHIBIT M.

Capt. George O. Baker.

Q. Your name is George O. Baker?—A. Yes, sir.
Q. Of Dartmouth?—A. Yes.
Q. Master mariner?—A. Yes, sir.
Q. How old?—A. 58.
Q. When did you first go to sea?—A. 1848.
Q. As what?—A. Cabin boy.
Q. And from there all through up to master?—A. Yes, sir.
Q. How many voyages master?—A. I have been master since 1863.
Q. How many voyages in round numbers?—A. About 15 voyages.
Q. And where?—A. All my first going to sea was New Zealand and coast of Chile. The last six years in the Ochotsk Sea and Japan Sea.
Q. Had a large experience in the Ochotsk and Japan seas?—A. As much as any one would have going there six years running.
Q. Now, Captain, when does the season in the Ochotsk open—when do you look for the opening?—A. We look for it about the middle of August.
Q. How late do you stay there?—A. Until the 10th or 12th of October.
Q. What makes you go away?—A. The weather getting a little rough.
Q. Are they northerly or southerly winds that set in?—A. Mostly northerly and easterly.
Q. And they commence about the 12th of October?—A. About the middle of October it commences to be very rugged.
Q. Then the season there lasts from about the middle of August until the middle of October?—A. Yes, sir.
Q. I suppose it varies with seasons—sometimes commences later and sometimes earlier?—A. Yes, sir; Captain Whiteside cruised up there until the 15th of November. I have read his abstracts.
Q. How often does that happen?—A. I have read in his abstracts that he cruised there until the 15th of November, and Captain B——— caught a whale there as late as the 9th of October. That is as late as I know of a whale being caught there.
Q. What is the weather that you call rugged?—A. Well, when we have continuous gales. Have it perhaps moderate one day, and have bad weather for a week so that we couldn't lower for whales.
Q. So that it would be practically useless to continue whaling after this rugged weather sets in?—A. Yes, sir; it would be unpleasant.
Q. In regard to the season from the middle of August to the middle of October, when is the best part of that season for whales?—A. From the 1st of September up to the 20th I have seen my best whaling. One season, the 18th of September, I lost all my boats. That was when the rugged weather began earlier.
Q. What should you say as to the August whaling compared with that of the September?—A. The September whaling is the best. It is just like this—one season the whales might strike by the middle of August and leave the 25th of September, and another time they might strike earlier or later, according to the feed there. September we call the best time for whaling in the southern part of the Ochotsk Sea.
Q. You know the *Cape Horn Pigeon?*—A. Yes, sir; was in her eight years.
Q. Who was the agent then?—A. William Potter, 2d.
Q. And you sailed for him eight years?—A. Yes, sir.
Q. Well now, Captain, what should you say would be a fair average catch of whales in the Ochotsk Sea for a season; what should you expect, getting up there the 10th or 15th of August and staying until the 10th of October?—A. Seven or eight or ten whales. I should go there with that expectation.
Q. That, you think from your experience, would be fair?—A. Yes, sir; anywhere from six to ten.
Q. Suppose you were in the *Cape Horn Pigeon* and were at Vladivostok on the 1st of October, and the northerly winds and rugged weather had commenced, would you consider it expedient to return to the whaling grounds in the Ochotsk Sea?—A. No, sir.
Q. Why not?—A. Because I should think that by the time I got to the Ochotsk Sea the season would be about up. I should leave for San Francisco.
Q. It would be useless to go back there?—A. Yes; it would take eight or ten days to get there, and then it would be the middle of October, and I think it would be useless. Of course a man might accidentally take a whale.
Q. You wouldn't think of making a return?—A. No, sir; I should come down direct for San Francisco.

Q. What would 9 whales make in oil and bone? What would be the average?—A. [illegible] pounds of bone and 900 barrels of oil. It might make more, but [illegible] pretty sure to make that. About 1,100 pounds of bone to a whale, and [illegible] of oil.

Q. What is the species?—A. Right whales; the same as they catch here in the [illegible] Atlantic. Not a bow-head.

GEORGE O. BAKER.

EXHIBIT N.

Captain Cleveland.

Q. Your full name?—A. Benjamin D. Cleveland.

Q. You live where?—A. New Bedford.

Q. You are a master mariner?—A. Yes.

Q. How old?—A. Forty-eight.

Q. How long have you been to sea?—A. Since 1862.

Q. Did you go before the mast?—A. Yes, sir; cabin boy.

Q. How many voyages have you been master mariner?—A. Five voyages.

Q. And where have you been whaling?—A. Both in the North and South Atlantic, in the Ochotsk Sea, and the Arctic Ocean.

Q. How many seasons in the Ochotsk?—A. Two.

Q. What has been your experience with regard to the weather there? What is the season in the Ochotsk?—A. Well, I found the season from about the middle of August to the 1st of October.

Q. What ends the season?—A. Well, we experienced a great deal of northerly and easterly winds, gales, making it very rugged indeed, so that we did not consider it suitable to put boats in the water. And another thing, our experience at this time was that the feed seemed to have gone; there were never any whales to be seen.

Q. The whales follow the feed?—A. Yes, sir.

Q. And the feed seems to disappear?—A. Yes, sir.

Q. So that you would say from the middle of August to the 1st of October was the whaling season in the Okhotsk?—A. Yes, sir; to the last of September.

Q. And what do you consider the best part?—A. Our best time was from the 1st of September to the 18th. It was the principal part in our two seasons.

Q. Do you know the *Cape Horn Pigeon;* did you ever sail in her?—A. No, sir; but I have cruised with her and know her well.

Q. What should you say was a fair average catch for a season in the Okhotsk?—A. Well, I always went there with an expectation of from 6 to 10 whales.

Q. And how would these whales average?—A. Well, those I got for two seasons in succession, from 1,100 to 1,150 pounds of bone to a whale.

Q. These estimates are based upon your own experience and what you have actually done, Captain?—A. Yes, sir.

Q. And about the oil?—A. Well, I consider that most of those whales to go just about 100 barrels of oil.

Q. Some larger and some smaller?—A. Yes.

Q. Could you make an average out of 7 or 8 whales? Would 7 or 8 whales average that?—A. That is a general average.

Q. That would apply to a season's work as well as to several season's work?—A. Yes, sir.

Q. Suppose, Captain, you were at Vladivostok on the 1st day of October with the *Cape Horn Pigeon* and the northerly winds and rugged weather had already set it, would you consider it expedient to return to the Okhotsk for whaling?—A. No, sir.

Q. What should you do?—A. Go directly for San Francisco.

Q. Why?—A. Because I should certainly consider then that the rugged weather had set in, and that it would not be using good judgment to go there and attempt to get a season's work after that date. The two seasons that I have been there I have left the 1st day of October. There were four ships there both seasons that I was there, and I stayed as late as any ship.

Q. I suppose the seasons vary; some are more open than others?—A. Yes, sir.

Q. Do you know the place where the *Cape Horn Pigeon* was seized?—A. Very well, I think.

Q. How long would it take to go from Vladivostok there if the northerly winds [illegible]?—A. It would certainly take twelve days, any ship.

Q. What were the two seasons you were in the Okhotsk?—A. 1889 and 1890. I [illegible] my business in the Okhotsk Sea; from the 28th of August until the 14th of [illegible] I did all my whaling.

Capt. B. D. CLEVELAND.

EXHIBIT O.

Captain Lapham.

Q. What is your full name, Captain?—A. Ezra B. Lapham.

Q. Where do you live?—A. South Dartmouth.

Q. What is your age?—A. Forty-nine.

Q. Where did you commence going to sea, before the mast?—A. Yes, sir; before the mast.

Q. How old were you?—A. Thirteen and one-half years.

Q. Have you been to sea ever since?—A. Yes, sir.

Q. All the way from the forecastle to captain of a ship?—A. Yes, sir.

Q. How many voyages did you make as master?—A. I commenced to go as master in '76, and have been every year but two or three since that time.

Q. Where have you been as master?—A. Mostly in the North Pacific. Have been in the Okhotsk Sea and Japan Sea two seasons.

Q. How many times in the Okhotsk?—A. Two seasons.

Q. What seasons were those?—A. '86 and '87.

Q. What is the season in the Okhotsk?—A. I went in July, about the 25th, and I stopped there until the 10th of October one year. One year I came out the 28th of September, but I was sick that time.

Q. What did you come away for; what were the reasons?—A. We calculated the season was about up the 10th of October.

Q. Did the northerly winds and rugged weather set in?—A. Yes, sir.

Q. And the season would last until the bad weather set in?—A. Until the bad weather set in.

Q. That is generally about the first part of October?—A. Yes, sir; anywhere from the first to the middle. Sometimes they stop until the 30th, but very seldom.

Q. Do you know where Vladivostok is?—A. Yes, sir.

Q. When is the best part of the season? You say the season lasts from the 1st of August until the 1st of October. What is the best part of that season?—A. Well, I found it the best——I did the most of my whaling in August, but one year I struck whales up to the 4th of October. I struck two whales on the 4th of October, but didn't save either of them. I consider September the best month.

Q. Do you know the *Cape Horn Pigeon?*—A. Yes; she was there the time I was there.

Q. Whom have you sailed for?—A. I. H. Bartlett, William C. N. Swift, Thomas Nye.

Q. Do you know the size of the *Cape Horn Pigeon?*—A. Yes, sir.

Q. What should you say was a fair, average catch for a season in the Okhotsk?—A. That depends a good deal on the season. Some seasons are better than others.

Q. What should you expect going in there with the *Cape Horn Pigeon* what should you think was a fair average catch?—A. I should say 10 whales.

Q. You don't always get 10 whales?—A. No; but that is always what I go for; always calculate that that is a good, fair catch.

Q. But you feel pretty sure of getting 6 or 7?—A. Yes, sir.

Q. You wouldn't go unless you thought you were going to get 6 or 7?—A. No, sir.

Q. Suppose you were at Vladivostok with the *Cape Horn Pigeon* on the 1st day of October, and the northerly winds and rugged weather had commenced, would you consider it expedient to return to the whaling grounds in the Okhotsk Sea?—A. No, sir; I shouldn't give it the second thought. I should leave, certainly.

Q. Why?—A. Because the season is about up by that time. By the time you got there the season would be gone. Still, of course a ship could go there and take her chances.

Q. You wouldn't get there until it was time to leave—until after the rugged weather had set in?—A. No, sir.

Q. How long would it take, if the northerly winds had set in, to go from Vladivostok to where the *Cape Horn Pigeon* was seized?—A. Well, I should think it would take ten days.

Q. So that by the time you got there the season would be practically over?—A. Practically, yes.

Q. About what do those whales in the Okhotsk make—oil and bone?—A. Well, you take a whale making 100 barrels of oil and you will get 1,100 pounds of bone.

Q. That is rather recognized as the average of those whales, isn't it?—A. Yes, sir.

Q. The question of when the best whaling is, I suppose, depends upon when the whales strike in; it may be August or September?—A. Yes, sir.

Q. It depends a good deal on the feed?—A. Yes, sir; a good deal.

Q. The whales follow the feed somewhat?—A. Yes, sir; that is where you find the whales.

Q. And if you see whales for two or three days running you are pretty sure to see them right along; that is, there is some time during the season when the whales come on, and then when they are gone of course they are gone?—A. Yes, sir; I consider August and September two very valuable months there.

EZRA B. LAPHAM.

UNITED STATES OF AMERICA, *Commonwealth of Massachusetts, Bristol, ss:*

On this 21st day of January, 1893, personally appeared before me, William F. Caswell, a notary public duly commissioned and qualified, the within-named George O. Baker, and on the 27th day of January, before me as aforesaid, personally appeared the within-named Benjamin D. Cleveland, and made solemn oath that the contents contained in the foregoing affidavits, subscribed by each of them in my presence, are true so far as they are stated upon their personal knowledge, and that, so far as they are stated upon hearsay, each affiant believes them to be true. And I further certify that said affidavits were signed by the said Baker, Lapham, and Cleveland in my presence, and that I have no interest in the claim to which these affidavits relate, and that I am not agent or attorney of any person having such interest. I further certify that the affiants are known to me to be credible persons of good character. And I further certify that each affidavit was read to the affiant before he signed the same.

In witness whereof I have hereunto set my hand and official seal this 14th day of February, A. D. 1893.

[SEAL.]

WM. F. CASWELL,
Notary Public.

EXHIBIT H.

I Thomas Scullun, of Chelsea, county of Suffolk and Commonwealth of Massachusetts, on oath depose and say: My name is Thomas Scullun; I am 39 years of age; by occupation a master mariner. I was born in New Bedford, Massachusetts, and am a native-born citizen of the United States, and my domicile is in Chelsea, Massachusetts. I first went to sea when I was 14 years of age as steerage boy, and have been at sea ever since, going through all the grades to master.

I sailed on my first voyage as master in the fall of 1888 from San Francisco in the bark *Cape Horn Pigeon* for a whaling voyage. I made that voyage, returning to San Francisco in the fall of 1889, refitted, and again sailed. I sailed each fall, returning in the following fall, until the fall of 1891. On the 7th of December, 1891, I again sailed as master of the *Cape Horn Pigeon* from San Francisco on a whaling voyage to the Yellow Sea, Japan Sea, and the Okhotsk Sea. I had a full crew, consisting of thirty-four all told, four officers, four boat steerers, cooper, steward, and two boys. These are all correctly stated upon the crew list, and their lays are set forth correctly. The ship's papers which I had were the articles, register, health certificate, and the manifests. I brought back all these papers to San Francisco when I returned there this fall, 1892, and delivered them to the custom-house officer. They are now in the custom-house at San Francisco. The vessel was fitted for a whaling voyage, with the usual fittings for that purpose. She was in no way fitted for a sealing voyage. She had no salt, no rifles, no sealing boats, and no gunners. There was no intention, in fitting for the voyage or at the time of sailing, of doing any business in sealing. The log book is on board the ship, and before sailing I will give it to Mr. Wise to be brought to New Bedford.

After leaving San Francisco we first went to Ascension, one of the Caroline Islands, and then to Guam, one of the Ladrone Islands. From there we went to the Yellow Sea, and cruised until about the 1st of April. From there we went right to Vladivostok, arriving there about the 26th of April, to repair a slight leak. While I was there I tried to get a permit to go to the Russian bays off the Okhotsk Sea whaling. We telegraphed to St. Petersburg for a permit, for which I offered to make compensation, but could not get a permit to go into the bays for whaling. For the last five seasons I had whaled in the Okhotsk Sea. I understood that we were not permitted to whale in the bays off the sea, but the sea itself was open to us, and it was for the purpose of getting permission to whale in the bays that I sought this permit. After we left Vladivostok we cruised in the Japan Sea until the 26th of June, when we returned to Vladivostok. We went there to recruit ship with fresh provisions. We left Vladivostok the 6th of July and went to the Okhotsk Sea, where I had

prosecuted the whaling until I was taken, on the 10th of September. During this time I had taken two whales, which yielded 2,600 lbs. of bone and 200 barrels of oil. One of these whales was caught about 120 miles from Sagalien Island and about 40 miles off Yetaup Island, and the other 150 miles from Sagalien and 80 miles from Yetaup Island. The night of the 9th, about 7 o'clock, we took in all sail and luffed to on the port tack, with the foreyard back, and about a quarter of 3 a. m. the officer came down and called me, and said there was a schooner coming down off the weather quarter, and he thought it was the *Mary H. Thomas.* It was then dark and foggy. The *Mary H. Thomas* was a whaling schooner, which had been upon the ground with us and which the log book will show we had spoken previously. I went on deck and saw her coming down, and I saw that if she kept coming as she was she would draw aft so that we would not see the red light; so I told the officer of the deck to set a white light so that he would see us, because I wanted to speak him at daylight to find out the whaling news. What I mean by that is, whether he had taken any whales or seen any whales. About a quarter of 4 the officer came down again and said, "That is not the *Mary H. Thomas.* It is some other schooner, and he wants to speak us." So I went on deck, and as I got on deck they lowered a boat down from the schooner, and I saw that the officer was some naval officer by the uniform. This boat came alongside, and a young officer came on board and demanded my ship's papers. I asked him what right he had or what he wanted my ship's papers for. Said I, "I am no sealer, and we are not off Robin Island." He said, "What are you doing here?" and I said, "I am whaling here." He said, "Well, you have no right to whale here, and my captain wants you to come aboard." I saw he could not talk good English, and I said, "Can your captain talk good English?" and he said, "Yes." So I said, "All right," and took up my papers, and he picked up my charts in the cabin, and we went aboard the schooner, and I saw then that she was a sealer, one of the confiscated schooners. So I asked the captain of the schooner what this all meant, and he said, "What are you doing here?" Said I, "I am whaling; it is a whale ship." He said, "Well, you have no right to whale here in the Okhotsk Sea." I said, "Why not?" And he says, "The Okhotsk Sea is a closed sea." Said I, "How long since?" "Why," he says, "it has always been a closed sea." "Well," said I, "that is funny. I have been coming here the last five years whaling, and have been in Vladivostok every year." He says, "Well, we have always overlooked the whalers before, but this year we have got orders to take all the whalers and all the sealers we can find. I have orders from my admiral to take all the whalers and all the sealers I can find." And he said, "What did you set that bright light for?" I said, "I saw you coming down and I thought you were the *Mary H. Thomas*, and I wanted to speak the *Mary H. Thomas*, so I set the bright light so they could see me." He says, "Well, I am going to take you to Vladivostok." I said, "All right, but I think you have no right to take me." "Well," he says, "I am not sure myself whether I have a right to take you, but I am going to take you to Vladivostok." I said, "Well, my whaling has just commenced here, and if you take me down to Vladivostok you make me lose my season's work, and if you do your Government will have to pay for it." "Well, if I am in the wrong my Government will pay for it."

Then he ordered me to stay aboard the *Cape Horn Pigeon* and keep my steward and boy. He says, "Your officers and crew come aboard and take charge of the schooner and myself and crew will come aboard and take the *Cape Horn Pigeon.*"

I said, "Where are you going to take my ship?" He said, "Down to Vladivostok." I said, "You have no right to put my officers and crew aboard that schooner and tell them to go to Vladivostok, or anywhere else. If you put my officers and crew aboard there they will go anywhere they have a mind to. They may go to San Francisco or they may go to Yokohama and sell her, and you can not stop them. The schooner has got no papers." "Well," he says, "I am going to put them aboard and I am going to order them to go to Vladivostok." I said, "If you do you will have to pay them for taking the schooner down, whether I am in the right or in the wrong. You make them prisoners." My first officer came to me and wanted to know what he should do, whether to go to San Francisco or to Vladivostok, and I told him to go to Vladivostok and they would pay him for bringing the schooner down. My officers and crew told me that after they went aboard they asked him what right he had to take the ship, and he said he took her for whaling in the Okhotsk Sea; that the Okhotsk Sea was a closed sea, and that we had no right to whale there.

I went back on the *Pigeon* with an officer and five armed men, and they boarded the schooner, and then the crew of the schooner, two officers and twelve men, came on board and took charge of the *Cape Horn Pigeon.* They navigated the *Pigeon* down, and I had nothing to do with the ship on the voyage down to Vladivostok; but I was not restrained of my personal liberty, and I occupied my own stateroom and

[illegible] with the officers. On the way down I said one day, "I believe you [illegible] a bad mistake; I believe you had no right to take this ship." He said, "[illegible] hadn't had two whales on board I wouldn't have taken you. I should have [illegible] you that you had no right to whale in the Okhotsk Sea and ordered you [illegible] have got to take you, because I should be afraid my crew would [illegible] when I arrived in port if I did not." The schooner got to Vladivostok [illegible] us, and when we arrived the lieutenant told me to let my crew go [illegible] ship and his crew would go aboard of the schooner. So I told [illegible] the crew together and get them aboard and take charge. My [illegible] the schooner. After I went ashore orders came to the schooner [illegible] ashore, and they were told that they were going to have quarters [illegible] They were landed on the wharf, bag and baggage, without food [illegible]

[illegible] was there to receive them, and I found them about 8 o'clock in the even[illegible] I went up to the captain of the port to find out about it, and he said that he [illegible] to land the crew and take them up to the station house, and there they [illegible] quarters. So I told him that they were landed there on the wharf and [illegible] there to receive them or show them where the station house was. He said he [illegible] not do anything that night, so I went and got them a place in a Chinaman's [illegible]

The next day the first officer and the second officer went to the station house to [illegible] about the quarters, and they were told they would let them know to-morrow. The next day they went there with an interpreter, and they were told that they [illegible] the names of the men, and that money had been sent in for the men, but that the chief of police would not do anything about the affair, and they said again they would let them know to-morrow. So they went there every day until the admiral arrived and the governor. When the admiral and the governor arrived the officers [illegible] to the governor, and he put them aboard of their own ship. They went to him about 11 o'clock in the forenoon, and about 5 o'clock in the afternoon they were put aboard the bark. The exact day will be shown by the log book.

While at Vladivostok I stayed at the hotel. I could get no information or directions as to whom I was to apply for release of my ship, and was informed that nothing could be done until the admiral and governor came. When the governor arrived I made a protest to him, demanded monthly wages from the time we were taken until we arrived in San Francisco, and demanded my passage from Vladivostok to San Francisco for myself and officers and crew. We supposed then that they would not restore the ship. He told me as soon as he read it that he would straighten this affair up as soon as they could.

The next day an officer came and took me on board the flagship, where I was informed by the officer who took the ship they were to have a hearing. I was not allowed in to the hearing, but was left on deck about an hour. Then an officer came up to me and said, "Come, Captain, we will go aboard of your bark." I told him who I was, and he told me that he was captain of the flagship. He said, "We are going aboard of your bark to hold a declaration. I said, "I suppose you want my log book, don't you?" He said, "Yes; where is your log book?" I said, "I have got it ashore." He said that he wanted me to go and get it, and they manned a boat and took me ashore. I got the log book and came back on board of the flagship, and then the captain of the flagship, five other captains, a judge, and a lieutenant, and myself got in a steam launch and went aboard of the *Cape Horn Pigeon*, and there they overlooked the log book, and could find nothing wrong in it. They went down in the hold and searched for sealskins or salt, bored into the casks to see if there were any skins or salt, but could find nothing to show that I had been sealing or aiding sealers, and they drew up a declaration in the Russian language to that effect. I signed that document, and asked them for a copy of it in English, which they gave me the next day with my log book. Then the next day I was sent for again to come on board the flagship, and was told by the judge that I could have my ship and be allowed to go to sea if I would bring no claim against the Russian Government. And I said, "If I bring a claim against the Russian Government, I can not have my ship?" and the judge said, "Well, yes, I guess so." I said, "Well, I am [illegible] to bring a claim against the Russian Government for loss of my season's work [illegible] expenses here." So the judge sent in word to the admiral that I was going to enter a claim against them. The admiral sent word back to know what my claim was [illegible] to be. I told them, and the admiral sent word for me to send my claim [illegible] after I sent my claim in that no claims from me or my owners would be rec[illegible] afterwards. I asked for two days to make out my claim, and I made it out and sent it in.

The next day after that I had orders to go to sea from the admiral. The Govern-

ment steam launch took the ship in tow and towed her down to the mouth of the harbor. I was not ready to go to sea. The next day I got a letter for the admiral wanting to know why I did not go to sea, and I told him that I was not ready; that I had got to get provisions aboard, and it was bad weather. He wanted to know if he could help me in any way; if I had money enough to get my provisions with, and I wrote back and told him that I had. I sailed on the 1st of October and arrived at San Francisco the 5th of November.

I did not go back to the whaling grounds, because the season was finished. The season for whaling in the Okhotsk closes from the 5th to the 10th of October. It would have taken me at that time about ten to fifteen days to have got back there, as the northerly winds had set in, so that I could not possibly have got there in time to do any whaling. The season in the Okhotsk closes when the heavy gales from the north commence, about the 10th of October, and then we have to leave. The season in the Okhotsk Sea is the months of August, September, and the first part of October. Some seasons are longer than others, depending upon the weather. At the time I left Vladivostok the stormy season had set in this fall. The basis upon which my claim was made up was an average of seven to eight whales. I took my log book and found that in the four seasons I had taken 28 whales, and the average of that would be 7 whales to a season, and this season I had already taken 2 whales when I was captured. The time I was taken was just when the great body of the whales had made their appearance. We saw whales the day we were taken and the next day. This was just the time when the whales came on this ground. My accounts with the owners will show my expenses.

At no time during the voyage in question was the *Cape Horn Pigeon* or myself, either directly or indirectly, engaged in sealing or aiding or assisting others engaged in sealing. Neither the *Cape Horn Pigeon*, myself, or my officers and crew took any seals. We never had any intention of taking any seals, either on the land or water. The ship was not provided with the tackle, furniture, and material necessary therefor, nor for the preservation of seal skins, and in no way was the ship or my officers and crew engaged in any sealing enterprise. Neither I nor, to my knowledge, have any of the officers or crew of the *Cape Horn Pigeon* received any indemnity whatever, in any form, for the loss and damage sustained by the seizure or any part thereof, with the following exception: The day we got the vessel back I was called down in the steerage by the cooper, and he showed me his chest, which had been broken open by the Russian crew. The lieutenant was called down and shown the chest, and he said he was sorry it was done, and for the cooper to make out his bill and bring it to him and he would pay him; that he did not want the admiral to know anything about it. The cooper made out his bill of 39 rubles, and the lieutenant paid him out of his own pocket.

I have left with Mr. Wing copy of a statement made by myself and officers at Vladivostok on the 21st of September, 1892; also declaration of the officers and crew of the *Cape Horn Pigeon* made at Vladivostok on the 23d day of September, 1892; also copy of my letter to the Russian admiral and my claim filed with him. I also refer to my communications to Commander Charles N. Gridley, United States Navy, commanding United States steamer *Marion*, which was at Vladivostok during this time, and which communications I understand have been forwarded to the Department by Commander Gridley. The amount of the claim when recovered will go into the proceeds of the voyage, to be distributed like other proceeds of the voyage, in which the officers and crew will each have his lay as if it had been the proceeds of oil and bone taken. No objection has ever been made during the five seasons that I have been in the Okhotsk Sea whaling until this time to whaling there, and I had received no notice or information of any difference in the law from what it had been in the past seasons until it was stated by the officer. I leave December 14 for San Francisco, and shall probably sail from San Francisco as master of the *Cape Horn Pigeon* upon another whaling cruise on the 22d of December, and expect to return to San Francisco in November, 1893, going to the same places where I have been for the last five seasons.

THOMAS SCULLUN,
Master Bark Cape Horn Pigeon.

UNITED STATES OF AMERICA, COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

On this 14th day of December, A. D. 1892, personally appeared before me, Homer W. Hervey, a notary public duly commissioned and qualified, the within-named Thomas Scullun, and made solemn oath that the facts stated in the foregoing affidavit subscribed by him in my presence are true so far as they are stated upon his personal

knowledge, and that so far as they are stated upon hearsay he believes them to be [illegible]. And I further certify that the said affidavit was signed by the said Thomas [illegible] in my presence, and that I have no interest in the claim to which this affidavit [illegible] and that I am not agent or attorney of any person having such interest. [illegible] certify that although not heretofore known to me, I believe the affiant [illegible] whole person. And I further certify that Leander F. Brightman, who [illegible] before me to the credibility of said affiant, is well known to me as a [illegible] of good character. And I further certify that the affidavit was read [illegible] before he signed the same.

[illegible] whereof I have hereunto set my hand and official seal this 14th day [illegible] A. D. 1892.

HOMER W. HERVEY, *Notary Public.*

UNITED STATES OF AMERICA, COMMONWEALTH OF MASSACHUSETTS, *Bristol, ss:*

I, Leander F. Brightman, merchant, of New Bedford, county of Bristol and Commonwealth of Massachusetts, on oath depose and say that I am and have been for [illegible] years well acquainted with Thomas Scullun, master of the *Cape Horn Pigeon* [illegible] the person who signed the annexed affidavit, and that said Thomas Scullen is of [illegible] knowledge a man of good character and a credible person.

LEANDER BRIGHTMAN.

Subscribed and sworn to this 16th day of December, before me, as hereinbefore certified.

[SEAL.] HOMER W. HERVEY, *Notary Public.*

EXHIBIT P.

[Copy letter to Russian admiral, 9/15/92.]

VLADIVOSTOK, *September 15, 1892.*

SIR: With reference to our conversation on board of the *Dimitri Donskoi* regarding my claim for the seizure of the *Cape Horn Pigeon* by the Russian authorities, I now beg to inform you that I will agree to an indemnity of $49,500, payable in United States gold currency.

This represents the proportion of my season's work lost through my seizure and detention, based upon the average of the proceeds of former seasons, including also an indemnity to my officers and crew, as well as their own and my expenses while at this port.

I will agree to this sum provided that I am not put to any further expense and am allowed to proceed at once to the United States, and will guarantee on behalf of myself and owners that no further proceedings will be taken in this matter.

Yours, respectfully,

THOMAS SCULLUN,
Master Cape Horn Pigeon.

Rear-Admiral P. TYRTOW,
Commander in Chief Russian Naval Forces in the Pacific.

EXHIBIT P°.

[Copy original claim.]

VLADIVOSTOK, *September 15, 1892.*

SIR: With reference to our conversation on board of *Dimitri Donskoi* regarding my claim for the seizure of the *Cape Horn Pigeon* by the Russian authorities, I now beg to inform you that I will agree to the following indemnity:

1. Amount claimed for loss of season (average of 5 seasons' work), [illegible] season		$60,600
[illegible] value of catch on board—2,600 pounds whalebone, [illegible]	$13,000	
[illegible] barrels of oil, at $13	2,600	
		15,600
		$45,000

2. Amount claimed for services of officers and crew bringing schooner *Marie* to Vladivostok	$1,000
3. Amount claimed for provisions and stores used by Russian officers and crew while on board the ship *Cape Horn Pigeon*	200
4. Expenses, board, and lodging of officers and crew while ashore	210
5. Amount of captain's hotel expenses, etc	50
6. Amount claimed for general expenses, including cost of cables, fees for legal advice, and clerk hire, boats, carriages, etc	3,040
Total, United States gold	49,500

Total amount being $49,500, United States gold currency.

I will agree to the above indemnity, provided that I am not put to any further expense and am allowed to proceed at once to the United States, and will guarantee on behalf of myself and owners that no further proceedings will be taken in this matter.

I am, sir, yours, respectfully,
(Signed) THOMAS SCULLUN, *Master,*
Cape Horn Pigeon.

Rear-Admiral P. TYRTOW,
Commander in chief Russian Naval Forces in the Pacific.

EXHIBIT Q.

LEGATION OF THE UNITED STATES,
St. Petersburg, May 3 (15), 1893.

YOUR EXCELLENCY: I have just received instructions from my Government to call your attention to the matter of the seizure by the Russian authorities of the bark *Cape Horn Pigeon* at Vladivostok on or about September 10, 1891, and especially to ask for the result of the pending investigation by the Russian authorities concerning the seizure and detention of the said bark and the treatment of the officers and crew at Vladivostok, referred to in your note to Mr. G. W. Wurts, Chargé d'Affaires, of September, 1891.

My Government expresses earnest desire for a full and complete investigation in the matter and a communication of all the circumstances in the case, and I respectfully request the result of the investigation above referred to at your earliest convenience.

I avail, etc., ANDREW D. WHITE.

EMBASSY OF THE UNITED STATES OF AMERICA,
St. Petersburg, Russia.

I, Herbert J. Hagerman, second secretary of the embassy of the United States of America, do hereby certify that I have compared the foregoing copy of a note addressed to the Imperial Russian Ministry of Foreign Affairs by the Legation of the United States at St. Petersburg, Russia, with the orginal as entered in the archives of this Embassy and now on file, and that the same is a correct transcription of the original as so entered, and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of this embassy this 17th day of February, 1900.

[SEAL.] HERBERT J. HAGERMAN,
Second Secretary United States Embassy.

EXHIBIT R.

LEGATION OF THE UNITED STATES,
St. Petersburg, June 2 (14), 1894.

YOUR EXCELLENCY: I have the honor, in obedience with instructions from my Government, to inclose sundry papers relative to the seizure of the brig *Cape Horn Pigeon*, in substitution of the claim made by Thomas Scullen, master of the said brig, to the Russian admiral at Vladivostok on September 25, 1892.

You will observe that the statements of the memorial are fully substantiated by affidavits; that the items of damage are the same as those presented by Captain

[illegible] the Russian admiral, but which at the time of that presentation were not [illegible] affidavits as they now are.

[illegible] *Cape Horn Pigeon* was at the time of seizure, and still is, owned by American [illegible]

[illegible] from San Francisco December 7, 1891, for a whaling voyage, and the [illegible] place on September 10, 1892, in the Sea of Okhotsk on the high seas, [illegible] the jurisdiction of Russia.

[illegible] tances of the seizure are fully given in Captain Scullun's affidavit.

[illegible] having been detained practically over the whaling season, great loss was [illegible] thereby to the owners of the vessel aforesaid.

[illegible] to call your excellency's attention to the affidavits of Baker, Cleveland, [illegible] all masters of whaling vessels, with large experience in the Okhotsk Sea, [illegible] the above point and showing the loss incurred by the detention.

The other items for which claims are made will also be found among the inclosed [illegible]

It will also be seen that Captain Scullun, having informed the Russian authorities at Vladivostok that he intended to prefer a claim for damages, was requested by [illegible] in a claim, which he did, but the next day he was ordered by the Russian admiral to go to sea, and was towed to the mouth of the harbor by a Government [illegible]

An extract, in copy, from Captain Scullun's log book, covering the period from the [illegible] of September to the 1st of October, 1892, inclusive, is herewith inclosed, and a copy also of the letter from Captain Scullun to the Russian admiral at Vladivostok submitting his claim.

In presenting this claim I am instructed by my Government to express its hope that an adequate indemnity will be allowed the claimants.

I avail myself of this occasion to return to your excellency the assurance of my most distinguished consideration.

ANDREW D. WHITE.

To His Excellency M. de GIERS,
Imperial Minister of Foreign Affairs, St. Petersburg.

EMBASSY OF THE UNITED STATES OF AMERICA,
ST. PETERSBURG, RUSSIA.

I, Herbert J. Hagerman, second secretary of the embassy of the United States of America do hereby certify that I have compared the foregoing copy of a note addressed to the Imperial Russian Ministry of Foreign Affairs by the Legation of the United States at St. Petersburg, Russia, with the original as entered in the archives of the Embassy and now on file, and that the same is a correct transcription of the original as so entered, and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of this embassy this 17th day of February, 1900.

[SEAL.] HERBERT J. HAGERMAN,
Second Secretary United States Embassy.

EXHIBIT S.

[Translation.]

No. [illegible] MINISTRY OF FOREIGN AFFAIRS,
ASIATIC DEPARTMENT,
October 12, 1895.

MR. CHARGÉ D'AFFAIRES: The Imperial Ministry of Foreign Affairs has had the honor to receive the letter you had the goodness to address to it on September 27/[illegible] of the current year, requesting information regarding the matter of the [illegible] unlawful hunting in Russian waters, of the following-named American vessels: The *Cape Horn Pigeon*, arrested on September 10, 1892; the *James Hamilton Lewis*, August 2, 1891, and the *C. H. White*, July 15, 1892.

[illegible] communicate to you in my turn the following answer:

[illegible] the *Cape Horn Pigeon*, I believe I must refer to the ministerial note [illegible] June 12, 1893, No. 2187, in which was exposed the point of view of our marine ministry on the matter of the request of indemnity presented by the captain of the American vessel in question, and which amounted to $49,500. Putting aside first of [illegible] total, as being absolutely exaggerated, the sum of $45,000, representing,

according to the statement of the claimant, the price of the whales which he could have killed during the time of his detention, the Marine Ministry has, moreover, raised objections against another point of the claim. It was the one indicated under the title of minor expenses—charges for telegraph, hire of the boats and cabs, and remuneration of the clerks. The captain requesting an indemnity of $3,400 on this account; the Marine Ministry found that sum much too high and required that the claimant, if he considers that he has a right to it, should produce at least vouchers confirming this part of the claim.

I must inform you, Mr. Chargé d'Affaires, that the documents transferred by the legation of the United States in its subsequent note of June 2, 1894, do not offer the character of vouchers to the claim in question. We find, indeed, in the Appendix No. 1 particularly a simple reproduction of the primitive request of the captain with regard to these $3,400, but without indorsing this request with any proof, nor even specifying it in detail, which naturally deprives it of its value from the legal point of view. Consequently, before it will be able to decide in regard to the claim of the captain of the *Cape Horn Pigeon*, it is reasonable to expect the production of formal evidence, already claimed in the above-mentioned ministerial note.

2. As to the case regarding the American schooner *James Hamilton Lewis*, the Imperial Ministry of Marine, with which the Ministry of Foreign Affairs did not fail to enter into communication on this subject, in consequence of the note of the United States Legation of June 30/July 11, 1894, has made known that it has taken the necessary measures to dispatch to St. Petersburg certain documents, which have remained in Petropavlovsk, the examination of which was indispensable, with a view to arriving at a decision. I have, however, renewed our request to the Ministry of Marine in order to hasten the solution of this case, and I shall not fail to inform you of the result of our proceedings.

3. Regarding the case of the American schooner *C. H. White*, the Ministry of Marine has sent us the communication, the tenor of which is as follows, and which serves as an answer to the allegations of the captain of the said vessel, reproduced in the note of the legation of December 12/24, 1894:

The Ministry of Marine insists that the assertion of the captain that he was captured at the point of intersection of 54° 18′ latitude north and 167° 15′ longitude west is found to be contradicted by the protocol of the capture. Moreover, the captain acknowledged himself, in a memorandum made in his own hand on the protocol, that it was at this last point that he found himself on the day of the arrest. And what proves that the captain understood what he signed and did not suffer in this respect any pressure, is that he accompanied his signature with observations relative to other points of the protocol—as, for example, to the point in regard to the absence of signal lights on the schooner, which he did not find correct. It results, therefore, according to the protocol, that the vessel was arrested at a distance of 23 miles from the nearest Russian coast, and not 80 miles, as is assured hereby by Captain Furman.

The Ministry of Marine states, moreover, that at the moment of the arrest the journal of the vessel was found not kept for two days, and the visit discovered instruments for fishing seals, as well as five seals freshly killed and not yet skinned.

As to the assertions of Captain Furman relative to the conditions under which he arrived in our waters and sailed the previous days, they are contradicted by the journal of the schooner, which shows that during the fifteen days which preceded the capture the vessel remained in the neighborhood of the Commodor Islands—as, for example, on the 18(30) June—when Captain Furman pretends to have hunted at 40 miles from the southern shores of Agatou Island, it is proved in reality that he was at a distance of 11 miles from the isle of Medny (Copper).

Similarly with regard to the declarations of the captain, as well as of the Pilot Ronning and Mr. Wolfgang, concerning the treatment that they had undergone at the same time as the rest of the crew, the inquest established that the treatment, far from giving place to complaints, provoked, on the contrary, from the part of the several persons in question, thanks addressed to the commander of the *Zabiaca*. At Petropavlovsk the crew in question, as well as the others belonging to other captured vessels, were, in want of other premises belonging to the State and to be disposed of in the town, boarded in buildings dependent on the administration of the local police, and each man received the alimentary allowance prescribed by the law.

Finally, it has been established that the captain and the crew of the *C. H. White* were allowed to keep their own clothes as they did not belong to the outfit of the schooner, and that the return to their country on board the *Majestic* of the said crew, together with the others who were in the same case, was executed by order of the commander of the *Zabiaca*.

It follows from all these statements that the capture in question was made under perfectly regular conditions.

[illegible] the Legation of the United States of September 27 (October 9), mention- [illegible] time the case of arrest of the man Robert Ohman, of the American [illegible] toward which it has the goodness to draw the attention of the [illegible] ministry, I can not but refer to the note that your predecessor addressed to [illegible] 631), of the present year, informing us that the American citizen in [illegible] already returned to the United States and the case should therefore be considered at an end.

Please to receive, Mr. Chargé d' Affaires, the assurance of my distinguished [illegible]

LOBANOW.

[illegible], *Chargé d' Affaires, etc.*

EXHIBIT T.

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 27 (February 8), 1899.

[illegible] EXCELLENCY: The seizure of certain American vessels, namely, the *Cape* [illegible] the *James Hamilton Lewis*, the *C. H. White*, and the *Kate and Anna*, [illegible] been the frequent subject of voluminous correspondence between the Im- [illegible] government and this embassy in the attempt to reach a settlement of the [illegible] incurred by the vessels and their employees.

Actuated by an earnest desire to definitely settle these cases at an early date, my Government has authorized me to offer, on behalf of the various claimants, terms of settlement which would be accepted by it in their behalf by way of compromise, and which I now have the honor to submit in the hope that, recognizing the friendly spirit of the proposition, the Imperial Government will respond by an acceptance of the terms submitted and agree to thus dispose of these vexatious questions.

It is, however, my duty to say that this offer of compromise is submitted solely for the purpose of obtaining a prompt settlement of these claims, and that, should the terms offered not be acceptable to the Imperial Government, or in case a compromise should not be effected, nothing herein is to be considered as in any way prejudicing the rights of the claimants, nor especially their rights to recover the full amounts of their claims by arbitration or negotiation.

The terms of the compromise proposed are as follows:

[illegible] the *Cape Horn Pigeon*, the original claim in which case was $49,500, the [illegible] $[illegible],000 is proposed. In this case it will be remembered that the Imperial Government has recognized the illegality of the seizure, made more than six years ago, and the question as to the amount of damages has been the sole question.

[illegible] For the *James Hamilton Lewis*, the total original claim in which case was $123,000, the sum of $82,000 is proposed.

[illegible] For the *C. H. White*, the total original claim in which case was $150,000, the [illegible] $[illegible],500 is proposed.

[illegible] For the *Kate and Anna*, the total original claim in which case was $10,000, the [illegible] $[illegible],000 is proposed.

In presenting the above I have the honor to specially solicit of your excellency [illegible] of an early response, the very essence of the proposal being to bring about an early and prompt settlement of these long-disputed claims.

Laval, etc.,
(Signed)

HERBERT H. D. PEIRCE,
Chargé d' Affaires ad interim.

To his Excellency Count MOURAVIEFF,
Imperial Minister of Foreign Affairs, etc.

EMBASSY OF THE UNITED STATES OF AMERICA,
ST. PETERSBURG, RUSSIA.

I, Herbert J. Hagerman, second secretary of the embassy of the United States of [illegible] do hereby certify that I have compared the foregoing copy of a note [illegible] to the Imperial Russian Ministry of Foreign Affairs by the Embassy of the [illegible] at St. Petersburg, Russia, with the original as entered in the archives [illegible] this Embassy and now on file, and that the same is a correct transcription of the original as so entered, and the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the seal of this [illegible] this 20th day of February, in the year 1900.

[illegible]]

HERBERT J. HAGERMAN,
Second Secretary United States Embassy.

1.3.2.24

EXHIBIT U.

[Translation.]

No. 157.]

MINISTRY OF FOREIGN AFFAIRS,
FIRST DEPARTMENT,
March 13, 1899.

Mr. AMBASSADOR: I have not failed to transmit to the competent authorities the contents of the note of the Embassy dated January 27 (February 8), of the current year, on the subject of the affair of the seizure by the Russian cruiser of the American schooners *Cape Horn Pigeon, James Hamilton Lewis, C. H. White,* and *Kate and Anna.*

It appears from the reply which the Ministry of Marine has just sent me that it does not find it possible to depart from the point of view expressed by it previously, and which the Imperial ministry had the honor to communicate to the Embassy of the United States in its notes of June 12, 1893, No. 2187; of August 26, 1895, No. 3498; of October 12, 1895, No. 4038; as well as of October 19, 1898, No. 4587. The Ministry of Marine considers:

1. That the damages suffered by the owner of the *Cape Horn Pigeon* after the seizure would be reimbursed by a sum not exceeding $2,500.
2. The compensation for the seal skins confiscated on the *Kate and Anna* ought to be fixed at a sum less than $1,767, demanded at the commencement of the affair by the proprietor.
3. As to the seizure of the *C. H. White* and *James Hamilton Lewis*, the ministry of marine considers that it was justified, and could not consent to a compromise in settlement of that affair.

Please accept, Mr. Ambassador, the assurance of my high consideration.

Count MOURAVIEFF.

His Excellency Mr. CHARLEMAGNE TOWER,
Ambassador of the United States, etc.

EMBASSY OF THE UNITED STATES OF AMERICA,
ST. PETERSBURG, RUSSIA.

I, Herbert J. Hagerman, second secretary of the embassy of the United States of America at St. Petersburg, Russia, do hereby certify that I have compared the foregoing copy of a note received by the said embassy from the Imperial Russian Ministry of Foreign Affairs, dated March 12, 1899, with the original now remaining on file in this said Embassy, and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof I have hereunto set my hand and affixed the seal of the embassy of the United States this 20th day of February, in the year 1900.

[SEAL.]

HERBERT J. HAGERMAN,
Second Secretary United States Embassy.

EXHIBIT V.

In the matter of the claim of the United States of America against the Empire of Russia on account of the claim of J. and W. R. Wing, agents and managing owners of the bark *Cape Horn Pigeon*, for damages arising out of the seizure of said bark in the Okhotsk Sea by an officer of the Russian navy on the 10th day of September, 1892.

Deposition of William R. Wing, taken at New Bedford, Mass., 8th January, 1900, before William F. Caswell, a notary public, duly commissioned and qualified, and residing at said New Bedford.

And thereupon the said WILLIAM R. WING, being duly sworn, doth depose and say in answer to questions propounded by Charles W. Clifford, attorney for the complainants:

1. State your name, age, residence, and occupation.—A. William R. Wing; age, 69 years; New Bedford; merchant.
2. Are you the surviving partner of the firm of J. and W. R. Wing?—A. I am.

3. Who was your partner; and if he has deceased, state when.—A. My brother, Joseph Wing, who deceased in 1895.

4. Are you the William R. Wing who signed and verified the memorial in this case?—A. I am.

5. Are the facts stated in that memorial, so far as they are within your personal knowledge, true?—A. They are.

6. And so far as they are stated on information and belief?—A. Yes.

7. Please examine the book now handed you, and state what it is.—A. It is the log book of the bark *Cape Horn Pigeon*, upon its voyage in 1892, upon which it was seized. It sailed from San Francisco on the 7th day of December, 1891, and arrived back there on the 5th of November, 1892.

(Log book presented and marked "Exhibit No. 1, W. F. C.")

8. What are the two papers I now hand you?—A. A chart of the North Pacific Ocean covering the east coast of Asia from Bering Strait to the Philippine Islands.

(Papers produced and marked "Exhibits 2 and 3, W. F. C.")

9. Will you please mark upon this chart the position of the *Cape Horn Pigeon* at the time it was seized?—A. The vessel was seized in latitude 46° 30′ north, and longitude 146° 35′ east, as stated by Captain Scullun, and as appears in the log book. I have marked upon the chart this position by a cross with my initials. The place is about 90 miles distant from the nearest land in a southeasterly direction, and about 1[illegible] miles from the nearest land in a westerly direction.

10. How long have you been in the whaling business?—A. Nearly fifty years, and as manager of whaling enterprises for about forty years.

11. How many whaling vessels have you had under your charge at one time?—A. Fourteen or fifteen.

12. Has your experience covered all kinds and classes of whaling?—A. It has.

13. And in all oceans?—A. Yes; except the Antarctic.

14. Has the management of this business been carried on by you personally?—A. I have always personally managed it.

15. Will you please state, Mr. Wing, what, in your opinion, was the value of the *Cape Horn Pigeon*, with its outfits and equipment, as it was at the time and place of seizure?—A. Upward of $40,000.

16. Will you please state how you arrive at this valuation?—A. I take the value of the vessel and outfits as it was in January, 1890, at the time when we rebuilt it completely from the water's edge externally, and internally below the water's edge, making it perfect, at $10,000 before the rebuilding. At that time we expended for the rebuilding and for the outfit account, $23,064.54, as appears by the account current from our books, a copy of which I hereto annex. Of this amount of $23,064.54, I have taken $11,500 as the cost of the rebuilding, that is, of the permanent addition to the vessel, leaving $11,564.54 as the outfit account for that voyage. This makes a value of $21,500 of the vessel, with the remains of its old outfit for its voyage of the season of 1890. I then take the average outfit for this voyage and the three subsequent voyages, as appear in the accounts taken from our books, and hereunto annex the four outfit accounts, being marked "Exhibits 4, 5, 6, and 7." These four accounts show as follows:

1890	$11,564.54
1891	10,053.24
1892	10,208.55
1893	11,415.84
Gross for the four	43,242.17

being an average outfit of $10,810.54. This, added to the $21,500, makes $32,210.54. To this must be added 8 per cent for one season's insurance, and interest for ten months, 5 per cent, making 13 per cent, or $4,200.37, to ascertain the actual cost value based upon its original value, for which I am confident it could have been sold, but which I would not have taken for it at the time we commenced the rebuilding. To this should be added 12½ per cent for the increased value arising from the consummation of the enterprise, the preparation and outfitting of the vessel, the directing and management of the enterprise, and the added value from the arrival of the vessel at the place of service. This last item has always been taken into account in all the cases of which I have had knowledge, such as the *Alabama* claims and the claims made before the Chilean Commission, etc. This 12½ per cent would amount to $[illegible] which, added to the $36,510.91, gives a value of the vessel at the time it was seized, as it then was, of $41,074.77. If on the date of its seizure I had known the situation I certainly should not have taken $40,000 for it.

17. Were you, in 1892, familiar with the price of oil and bone in the market?—

A. Thoroughly. It was my business to keep run of it and know its condition, and I did so. I had oil and bone on hand for sale.

18. What, in your judgment, was the fair market price for Northern whale oil, such as the *Cape Horn Pigeon* was taking, on the date of the seizure of the vessel, the 10th September, 1892?—A. $13 a barrel.

19. Did this price vary during the fall and winter?—A. Very slightly, if any. It was substantially something better than 40 cents a gallon, which equals $13 a barrel, there being 31½ gallons to the barrel.

20. What, in your opinion, was the market value of the bone which the *Cape Horn Pigeon* was taking at the time of its seizure?—A. During the month of August this bone was $5 a pound, sales being made from $4.90 to $5.10 per pound. In the month of September sales were made, the price in some cases not being quoted, but through this month and the month of October the price fell to about $4.25. The price declined during those two months to about $4.25, sales being made at that figure, and in the month of November there was a further decline to about $4.

21. In the ordinary course of business, if the *Cape Horn Pigeon* had not been seized when would her catch have reached the market?—A. On her arrival at San Francisco, about the last of October or the first of November, then her catch would have been marketable.

22. In your experience is oil and bone ever sold to arrive?—A. Yes.

23. Would it have been possible for you to have sold in the market the catch of the *Cape Horn Pigeon* subject to arrival?—A. Yes; subject to the condition not to exceed a certain quantity.

24. Would such a sale have commanded the going market price?—A. Substantially.

25. Please examine the paper handed you and state what it is.—A. It is the copy of the account with the *Cape Horn Pigeon* of expenses paid by us on account of the seizure and this claim to the 9th of January, 1899.

26. Have these sums actually been paid?—A. They have.

(Account annexed, marked "Exhibit 8, W. F. C.")

27. Since January, 1899, have you incurred any other expenses?—A. We have. Probably $200 or $300, which have not been paid.

28. Are there any other outstanding liabilities on this account already incurred?—A. There is an unsettled account for services and assistance rendered to Captain Scullen at Vladivostok, which we have never settled, awaiting the determination of the claim.

29. Do you know of any notice ever issued by the Russian Government in relation to the closure of the Okhotsk and Bering seas to whalemen?—A. I do not. I never heard of any such order. The only order or notice of which I ever knew was a notice given to Captain Spencer, of the British whaling bark *Fairaway*, the 1st of September, 1875, which was printed in the New Bedford Whalemen's Shipping List of the 7th of December, 1875, a copy of which I annex to this deposition.

(Exhibit annexed, marked, "9, W. F. C.")

30. Did Captain Scullun know of this notice?—A. He did.

31. What did this notice prohibit?—A. Whale fishery in the gulfs and bays of Bering and Okhotsk seas within 3 miles of the coast and islands.

32. Was it in consequence of this notice that Captain Scullun, as he says, sought to secure a license to carry on the whale fishery in the gulfs and bays within 3 miles of the land?—A. It was.

WM. R. WING.

In the matter of the claim of the United States of America against the Empire of Russia on account of the claim of J. and W. R. Wing, agents and managing owners of the bark *Cape Horn Pigeon*, for damages arising out of the seizure of said bark in the Okhotsk Sea by an officer of the Russian navy on the 10th day of September, 1892.

Deposition of George R. Phillips, taken at New Bedford, Mass., the 8th of January, 1900, before William F. Caswell, a notary public duly commissioned and qualified, and residing at said New Bedford.

And thereupon the said GEORGE R. PHILLIPS, being duly sworn, doth depose and say, in answer to questions propounded by Charles W. Clifford, attorney for the complainants:

1. State your name, age, residence, and occupation.—A. George R. Phillips; age, 69 years; New Bedford; present occupation, secretary and accountant; for forty-four

years I was engaged as a broker in oil and bone, being one of the largest oil brokers in the business.

2. Were you in the habit of keeping a record of sales?—A. I was.

3. Have you refreshed your recollection by a recent examination of your records?—A. I have.

4. Will you state what was the market price of northern oil during the fall of 1892?—A. About 40 cents a gallon. It varies very little.

5. What was the market price of northwest bone during the fall of 1892?—A. In August, about [illegible]. In September and October it declined to about $4.25, and in November there was a further decline to about $4.

6. At that time was it possible to sell a cargo to arrive subject to arrival?—A. I think it was [illegible].

GEO. R. PHILLIPS.

I hereby certify that on this 8th day of January, A. D. 1900, before me, a notary public, duly commissioned and sworn and residing at New Bedford, county of Bristol and Commonwealth of Massachusetts, personally appeared the within-named William R. Wing and George R. Phillips, well known to me to be the persons described therein, who gave the annexed testimony, and, having been duly cautioned and sworn by me, did give the annexed depositions in response to interrogatories propounded by Charles W. Clifford, attorney for claimants. And thereupon said depositions were reduced to writing by my clerk and signed by the said Wing and Phillips in my presence, and have been forwarded by me to the secretary of the United States embassy at St. Petersburg for use in the case of the claim of J. and W. R. Wing, agents and managing owners of the bark *Cape Horn Pigeon*, pending before the arbitration agreed upon between the United States of America and the Empire of Russia.

The interlineation on page 3, marked "W. R. W." and "W. F. C.," was made before signing.

W. F. C., *N. P.*

In witness whereof I have hereunto set my hand and notarial seal this 12th day of January, 1900.

[SEAL.] WM. F. CASWELL, *Notary Public,*
New Bedford, Mass.

Case: *Cape Horn Pigeon.*
Deposition: William R. Wing.
Exhibit I.
(Initialed): W. F. C.

EXHIBIT V.

ANNEX I.

[Bark *Cape Horn Pigeon*—Log book. Season of 1892. Thomas Scullen, master.]

Monday, December 7.—At 1.30 p. m. hove up anchor, and tug *Sea Witch* towed us out to Whising Buoy. At 3.30 tug let go, wind NE., ship steering SW. by S. All sail set at 6 p. m. Farallon light, bearing NW., distant 20 miles.

Tuesday, December 8.—Light breeze from southward, with heavy swell from westward; ship on western tack under short sail. Saw one sail bound to San Francisco. Employed in ship duty. Later on raining. No observations.

Wednesday, December 9.—Fresh breeze from northward, with heavy sail on ship steering SSW. and SW. by S., with topsail and courses and jib. Employed in rigging boats. Lat. 36° 32′; long. 124° 51′ W.

Thursday, December 10.—Fresh breeze from NE., ship steering SW. by S., with all sail set. Employed in rigging boats. Lat. 34° 30′ N.; long. 126° 30′ W.

Friday, December 11.—Light breeze from NE.; ship steering SW., with all sail set. Employed in rigging boats. Lat. 33° N.; long. 129° 12′ W.

Saturday, December 12.—Light breeze from NE; ship steering SW., with all sail set. Employed in ship duty. Lat. 32° 18′ N.; long. 130° 35′ W.

Sunday, December 13.—Fresh breeze from southward; ship heading SW. by W. and WSW. Weather cloudy. No observations.

Monday, December 14. Fresh gale from southward; ship on western tack under [illegible]. Later on raining. No observations.

Tuesday, December 15.—Commenced with fresh gale from southward; ship under

mizen staysail. Later on wind from westward; ship on southward tack under short sail. Lat. 31° 55′ N.; long. 134° 07′ W.

Wednesday, December 16. Light airs from northward; ship steering SW. by W. Employed in mending fore-gallant sail and rigging boats. Lat. 31° 15′ N.; long. 134° 50′ W.

Thursday, December 17.—Commenced with calm. Later on light airs from NE.; ship steering SW. Employed in cutting over main topsail. Lat. 30° 56′ N.; long. 135° 1′ W.

Friday, December 18.—Commenced with calm. Later on light breeze from the NW.; ship steering SW. Later calm. Employed in mending sail. No observations.

Saturday, December 19.—Good breeze from northward; ship steering SW. Employed in mending sails and working in rigging. Lat. 29° 55′ N.; no long.

Sunday, December 20.—Fresh breeze from NE.; ship steering SW. Saw one sail steering into the NW. Later on ship steering SW. ½ W. Lat. 28° N.; long. 138° 23′ W.

Monday, December 21.—Fresh breeze from NE.; ship steering SW. ½ W. Saw nothing to-day. Lat. 26° 26′ N.; long. 42° 30′ W.

Tuesday, December 22. Fresh breeze from ENE.; ship steering SW. ½ W. Later on steering SW. by W., all sail set. Employed in working in rigging and repairing sail. Lat. 24° 40′ N.; long. 145° 47′ W.

Wednesday, December 23.—Fresh breeze from the ENE.; ship steering SW. by W.; all sail set that will draw. Employed in mending sail and hauling blocks. Lat. 23° 19′ N.; long. 149° 09′ W.

Thursday, December 24.—Fresh breeze from ENE.; ship steering SW. by W. Employed in repairing sails and hauling blocks. Later ship steering SW. ½ W. Lat. 22° N.; long. 152° 34′ W.

Friday, December 25.—Strong breeze from eastward; ship steering SW. ½ W.; all sail set. At 8 a. m. raised Sandwich Islands; at 7 p. m. went through between Hawaii and Maui. Later on ship steering SW.

Saturday, December 26.—Fresh breeze from NE.; ship steering SW. Employed in working rigging. Later calm. Later light breeze from NE. Lat. 19° 20′ N.; long. 137° 38′ W.

Sunday, December 27.—Fresh breeze from ENE., with rain; ship steering SW.; all set sail that will draw. Lat. 18° 06′ N.; long. 159° 12′ W.

Monday, December 28.—Fresh breeze from ENE., with rain; ship steering SW., with all sail set that will draw. Lat. 16° 21′ N.; long. 162° 57′ W.

Tuesday, December 29.—Fresh breeze from ENE.; ship steering SW., with all sail set. Employed in working in rigging. Saw blackfish. Lat. 14° 35′ N.; long. 164° 39′ W.

Wednesday, December 30.—Fresh breeze from ENE.; ship steering SW., with all sail set; weather rainy. Employed in working in rigging. Lat. 12° 49′ N.; long. 167° 21′ W.

Thursday, December 31.—Fresh breeze from ENE.; ship steering SW. ½ W.; all sail set. Employed in working in rigging and sailmaking. Lat. 11° 04′ N.; long. 170° 04′ W.

Friday, January 1, 1892.—Fresh breeze from NE.; ship steering SW. ½ W.; all sail set. Employed in working in rigging and sailmaking. Lat. 9° 21′ N.; long. 172° 50′ W.

Saturday, January 2.—Fresh breeze from NE.; ship steering SW. ½ W., all sail set. Employed in breaking out pronions. Weather rainy. Lat., 7° 55′ N.; long., 175° 14′ W.

Sunday, January 3.—Fresh breeze from NE.; ship steering SW. ½ W., all sail set that will draw. Weather rainy. Lat., 6° 24′ N.; long., 177° 21′ W.

Monday, January 4.—Fresh breeze from NE.; ship steering SW. ½ W., all sail set. Weather rainy. Employed in working in rigging. Lat., 5° 00′ N.; long., 179° 28′ W.

Wednesday, January 6.—Light breeze from E.; ship steering W. by S., all sail. Employed in working in rigging. Weather rainy. Lat., 4° 24′ N.; long., 178° 21′ E.

Thursday, January 7.—Light breeze from NE.; ship steering W. by S., all sail set. Employed in working in rigging. Saw one finback. Lat., 4° 20′ N.; long., 176° 22′ E.

Friday, January 8.—Fresh breeze from NE. at times, with heavy rain squalls; ship steering W. by S., with all sail set. Lat., 4° 27′ N.; no longitude.

Saturday, January 9.—Light breeze from ENE., with heavy rain; ship steering W., later on steering W. by S., all sail set. Employed in washing blankets. No observations.

Sunday, January 10.—Good breeze from NE.; ship steering W. by S., later steering W., with all sail set. At 2 p. m. raised Boston Island. Lat., 4° 30′ N.; long., 168° 21′ E.

Monday, January 11.—Good breeze from NE.; ship steering W. ½ N., all sail set. Employed in working in rigging, sailmaking, and painting. Lat., 5° 05′ N.; long., [illegible].

Tuesday, January 12.—Good breeze from NE.; ship steering W. At 7 p. m. raised Strong Island, bearing SW., distant 20 miles. Employed in ship duty. Lat., 5° 48′ N.; long., 162° 36′ E.

Wednesday, January 13.—Strong breeze from NE.; ship steering W. ½ N. At 6 a. m. raised Mac Askill Island. Stopped there to trade; at 12.30 finished. Later on steering W. ½ N. Lat., 6° 20′ N.; long., 160° 8′ E.

Thursday, January 14.—Good breeze from NE., ship steering W. ½ N. At 6 a. m. raised Ascension. At 9 a. m. anchored in Kitty Harbor in 5 fathoms of water. *Lydia* and *Abraham Barker* in dock.

Friday, January 15.—Ship at anchor in Kitty Harbor in 5 fathoms of water.

Saturday, January 16.—Ship at anchor in Kitty Harbor in 5 fathoms of water. Employed in cleaning ironwork. Sent a raft ashore for water.

Sunday, January 17.—Ship at anchor in Kitty Harbor in 5 fathoms of water.

Monday, January 18.—Ship at anchor in Kitty Harbor in 5 fathoms of water. Received two boats of wood and one raft of water. Captain went on board the *Abraham Barker* to-day.

Tuesday, January 19.—Ship at anchor in Kitty Harbor in 5 fathoms of water. Received on board two boats of wood and sent a raft on shore.

Wednesday, January 20.—Ship at anchor in Kitty Harbor in 5 fathoms of water. Received two boats of wood and a raft of water.

Thursday, January 21.—Ship at anchor in 5 fathoms of water. Received four boats of wood.

Friday, January 22.—Ship at anchor in Kitty Harbor in 5 fathoms of water. Received one boatload of wood. Ship ready for sea.

Saturday, January 23.—Ship at anchor in Kitty Harbor in 5 fathoms of water. At 8 a. m. hove up anchor and went to sea, later steering WNW. Later on strong breeze from NNE. Lat., 60° 50′ N.; long., 158° 01′ E.

Sunday, January 24.—Good breeze from NNE.; ship steering NW. by N., later steering NW. by W. ½ W. Lat., 8° 33′ N.; long., 155° 34′ E.

Monday, January 25.—Good breeze from NNE.; ship steering NW. by W. ½ W., with all sail set. Employed in making new main royal. Lat., 10° 21′ E.; long., 152° 49′ E.

Tuesday, January 26.—Good breeze from NNE.; ship steering WNW. and W. by N. ½ N., all sail set. Lat., 12° 06′ N.; long., 149° 30′ E.

Wednesday, January 27.—Good breeze from the NNE., ship steering W. by N. ½ W. At 5 p. m. raised Guam Island.

Thursday, January 28.—Ship at anchor in Guam in 16 fathoms. Employed in painting ship and repairing boat.

Friday, January 29.—Ship at anchor in Guam in 16 fathoms of water. Employed in painting yards and trading.

Saturday, January 30.—Ship at anchor in Guam in 16 fathoms of water. Weather rainy.

Sunday, January 31.—Ship at anchor in Guam in 16 fathoms of water.

Monday, February 1.—Ship at anchor in Guam in 16 fathoms of water.

Tuesday, February 2.—Ship at anchor in Guam in 16 fathoms of water. Captain ashore sick. *Abraham Barker* arrived to-day.

Wednesday, February 3.—Ship at anchor in Guam in 16 fathoms of water. Weather rainy.

Thursday, February 4.—Ship at anchor in Guam in 16 fathoms of water. Captain sick.

Friday, February 5.—Ship at anchor in Guam in 16 fathoms of water. Captain better.

Saturday, February 6.—Ship at anchor in 16 fathoms of water in Guam. At 8 a. m. hove up anchor and went to sea; later, ship steering NW. ½ W. under short sail. Lat., 13° 40′ N.; long., 144° 37′ E.

Sunday, February 7.—Good breeze from NE.; ship steering NW. ½ W. under short sail. Lat., 15° 30′ N.; long., 142° 13′ E.

Monday, February 8.—Strong breeze from NE.; ship steering NW. ½ W. under lower topsail and foresail and jib. Broke out slabs to-day. Lat., 16° 55′ N.; long., 140° 41′ E.

Tuesday, February 9.—Light breeze from NE., ship steering NW. ½ W. with all sail set. Employed in sending down foregallant yard and sending up the crow's nest. Lat., 18° 21′ N.; long., 188° 30′ E.

Wednesday, February 10.—Light breeze from NE., ship steering NW. ½ W. with all sail set. Later on strong breeze from northward. Took in sail and fore topsail. Lat., 19° 19′ N.; long., 137° 11′ E.

Thursday, February 11.—Fresh breeze from NE., ship steering NW. ½ W. with all sail set. Employed in repairing foresail. Lat., 20° 40′ N.; long., 135° 05′ E.

Friday, February 12.—Light breeze from the ESE., ship steering NW. ½ W., all sail set. Employed in repairing foresail and picking over potatoes. Lat., 22° 22′ N.; long., 132° 56′ E.

Saturday, February 13. Light breeze from the SE., ship steering NW. ½ W., all sail set. Employed in breaking out to find the leak. Lat., 23° 05′ N.; long., 131° 41′ E.

Sunday, February 14.—Good breeze from SE., ship steering NW. by W., with all sail set. At 12 o'clock wind haul from NW. with heavy rain. Ship under low topsails. Later calm. Lat., 23° 17′ N.; long., 130° 44′ E.

Monday, February 15.—Commenced with light breeze from northward, ship heading WNW., all sail set. Later on fresh gale from NNE., ship under short sail. Lat., 24° 10′ N.; long., 129° 17′ E.

Tuesday, February 16.—Commenced with fresh gale from northward; ship on western tack. Later on fresh breeze from NE., ship heading NW. by W. and WNW., with all sail set. Later strong breeze. Took in light sails, fore topsail, and main sail. Lat., 23° 51′ N.; long., 128° 16′ E.

Wednesday, February 17. Fresh breeze from NNE., ship heading NW. and NW. by W., all sail set. At 2 p. m. saw a steamer going to SW.; at 5 p. m. raised the island of Loo-choo, bearing north; at sunset shortening sail. No observations.

Thursday, February 18. Commenced with strong breeze from SE., ship steering NW. by W. At 10 a. m. wind hauled to NW. with rain. Took in all sail, ship heading NE. No observations.

Friday, February 19.—Commenced with light breeze from northward, ship on eastern tack. Island of Choo-boo in sight. At 9 a. m. wore ship heading WN. by W. and WNW. Lat., 26° 88′ N.; long., 126° 12′ E.

Saturday, February 20.—Fresh breeze from northward; ship on western tack, heading NW. and NW. by W. Weather thick and rainy. Lat. 27° 30′ N.; no longitude.

Sunday, February 21.—Light breeze from ENE., with smoky weather; ship on the western tack. At 10 a. m. spoke a steamer and got his latitude and longitude. Saw two junks and a humpback. Lat. 28° 40′ N.; long. 124° 20′ E.

Monday, February 22.—Good breeze from eastward with thick, smoky weather, ship heading NNE. and NE. by N., all sail set. Saw one steamer and a schooner. Could not make her out. Lat. 29° 46′ N.; long. 124° 22′ E.

Tuesday, February 23.—Fresh breeze from NE.; ship on western tack, heading NNW. Weather cloudy and foggy. At 11.30 sounded; got 26 fathoms of water. At 11.45 wore ship, hauling to northward. At 4 p. m. gale. At sunset ship under short sail. Saw five junks. No observations.

Wednesday, February 24.—Fresh gale from northward; ship on eastern tack under short sail. Saw a small finback. Lat. 40° 46′ N.; long. 125° 15′ E.

Thursday, February 25. Light breeze from the northward, ship heading E. by N. and E. by S., all sail set. Saw three junks. No observations.

Friday, February 26.—Fresh breeze from northward; ship on eastern tack under short sail. Gained *Charles W. Morgan.* Had seen nothing but humpbacks. No observations.

Saturday, February 27.—Fresh breeze from northward; ship on eastern tack, heading east; ship under short sail. Saw a master schooner bound to the westward. At 12 o'clock wore ship, heading NW. and NNW. No observations.

Sunday, February 28.—Fresh breeze from eastward, ship steering NNW. and NW. by W. and W. At dark luffed-to on eastern tack. Saw jumpers and finbacks. Lat. 31° N.; long. 126° 51′ E.

Monday, February 29.—Fresh gale from NE. with rain; ship on northern and western tack under short sail. No observations.

Tuesday, March 1.—Fresh breeze from northward; ship on western tack. At 7 a. m. wore ship. Saw plenty of feed and one finback. Lat. 30° 50′ N.; long. 126° 13′ E.

Wednesday, March 2.—Fresh breeze from eastward, with thick weather and rain; ship steering N. by E. At 3 p. m. took in sail; at 6 p. m. wore ship. No observations.

Thursday, March 3.—Light airs from all around the compass, and foggy. Lat., 31° 11′ N.; long., 126° 17′ E.

Friday, March 4.—Fresh gale from NNE., with thick weather and heavy rain. Plenty of starue gen-eyes (sic) around the ship. Later on ship on western tack. No observations.

[illegible] March 5.—Strong breeze from NE., with rain and thick, cloudy weather; [illegible] No observations.

[illegible] 6. Fresh gale from NW., with cold rain; ship on eastern tack [illegible] No observations.

[illegible] March 7.—Fresh gale from northward; ship on western tack under short [illegible] Later on moderated down some. Set foresail and jib. Lat., 30° 08′ N.; long., [illegible]

[illegible] Strong breeze from northward; ship on western tack with all [illegible] At 3.30 p. m. tacked ship; at 6 p. m. took in sail. Saw four junks. No [illegible]

[illegible] March 9. Strong breeze from ENE., with rain and thick weather; [illegible] and western tack under short sail. Saw one steamer and one junk. [illegible]

[illegible] March 10.—Strong breeze from northward, with heavy weather. Ship [illegible] under short sail. Saw two fin-backs. Lat. 30° 30′ N.; long. 125° [illegible]

Friday, March 11.—Fresh breeze from eastward. Ship on northward tack, with [illegible] sail set. Saw two steamers. Killed four hogs. Lat. 30° 51′ N.; long. 125° 28′ E.

[illegible] March 12. Commenced with calm and raining hard. At 12 o'clock wind [illegible] out from NW., with thick weather and rain, ship steering E. At 6 p. m. [illegible] to on northern and eastern tack under short sail. No observations.

[illegible] *March 13.*—Fresh breeze from NW. Ship on eastern tack under short sail. No observations.

Monday, March 14.—Strong breeze from NW., with snow squalls. Ship on eastern tack heading NE. Ship under short sail. Lat. 31° 03′ N.; long. 126° 30′ E.

Tuesday, March 15.—Fresh breeze from northward. Ship steering SW. and S. At 5 p. m. raised the *Charles W. Morgan.* At 5.30 gained the *Morgan.* Had not seen any whales. Lat. 31° N.; long. 127° 08′ E.

Wednesday, March 16.—Fresh breeze from NE., with rainy weather. Ship steering W. and S. and NW., all sail set. At 4 p. m. commenced raining; took in sail. Ship on northern tack; *C. W. Morgan* in sight. Lat. 30° 40′ N.; long. 126° 30′ E.

Thursday, March 17.—Fresh breeze from eastward, with cloudy weather. Ship on northern tack. At 4 p. m. wore ship. Later on raining. Saw one junk. No observations.

Friday, March 18.—Strong breeze from NW., with cloudy weather. Ship lying [illegible] and under short sail. Later on raining. Parted the fore-topmast head stay. No observations.

[illegible] March 19.—Fresh gale from NW. Ship on eastern tack under short sail. Lat. 30° [illegible] N.; long. 126° 38′ E.

[illegible] March 20.—Fresh breeze from eastward. Ship steering W. and NW. Saw [illegible] raining. At sunset luffed to on northern tack. Lat. 30° 43′ N.; long, 126° 55′ E.

[illegible] *March 21.*—Fresh breeze from eastward. Ship steering N. and NNW. [illegible] in breaking out provisions. At 12 o'clock wore ship. At 1 p. m. raised [illegible] *W. H. Myers,* Captain Hallett. At 3.30 gained the *Myers.* Later on fresh [illegible] from the eastward, with rain. Ship on southern tack under bare poles. No observations.

[illegible] *March 22.*—Fresh gale from eastward. Ship on southern tack under short [illegible] Brig *W. H. Myers* in sight. No observations.

Wednesday, March 23.—Fresh breeze from NNE. Ship on eastern tack. Brig [illegible] in sight. Lat. 30° 53′ N.; long. 126° 18′ E.

[illegible] *March 24.*—Strong breeze from northward. Ship on eastern tack under short sail. At 3.30 wore ship. Saw nothing. Lat. 30° 56′ N.; long. 127° 30′ E.

Friday, March 25.—Fresh breeze from eastward. Ship cruising. At 1 p. m. gained the *C. W. Morgan* and *M. H. Thomas.* They are clean. Lat. 31° N.; long. 126° 23′ E.

Saturday, March 26.—Commenced with a calm; at 8 a. m. light breeze from northward. Ship on eastern tack; all sail set. *C. W. Morgan* and *M. H. Thomas* in sight. Lat. 30° 40′ N.; long. 126° 48′ E.

Sunday, March 27.—Strong breeze from eastward. Ship on northern tack under [illegible] sail. Saw nothing. No observations.

Monday, March 28.—Fresh gale from northward, with rain. Ship on eastern tack [illegible] short sail. No observations.

[illegible] *March 29.*—Fresh gale from northward. Ship on eastern tack under short [illegible] in sight. Lat., 30° 40′ N.; long., 126° 18′ E.

[illegible] *March 30.*—Fresh breeze from northward. Ship on the eastern tack, [illegible] *C. W. Morgan* in sight. At 9 p. m. tacked ship. Saw nothing. Lat., [illegible] long., 126° 54′ E.

[illegible] March 31.—Light breeze from eastward. Ship on northward tack. All [illegible] for six weeks. Have seen a steamer. Lat., 31° 24′ N.; no long.

Friday, April 1.—Fresh gale from southward. Ship on western tack. At 10 p. m. wind hauled to westward, blowing hard. Ship on northward tack. No observations.

Saturday, April 2.—Commenced with strong breeze from westward, with smoky weather. Air is full of dust. Ship on southern tack under short sail. Later strong breeze. Lat., 31° 16′ N.; long., 126° 56′ E.

Sunday, April 3.—Commenced with strong breeze from northward. Ship steering E. and S. At 12 o'clock luffed to on western tack. Later, light wind. Saw one finback and water full of grit and fish. Lat., 30° 40′ N.; long., 127° 14′ E.

Monday, April 4.—Strong breeze from southward and westward. Ship steering NNW. and N. and on western tack. Saw one finback. Employed in filling salt water in main hatch. Saw one steamer bound to SW. Lat. 30° 59′ N.; long. 126° 45′ E.

Tuesday, April 5.—Fresh breeze from northward. Ship on western tack. At 7 p. m. steered S., all sail set. At 3 p. m. steered E. Saw nothing. Lat. 31° 10′ N.; long. 126° 33′ E.

Wednesday, April 6.—Light breeze from northward and eastward. Ship steering W. and WSW., all sail set. At 3 p. m. commenced thawing and raining. Took in all sail, luffed-to on northward tack. Saw nothing. Lat. 31° 03′ N.; no longitude.

Thursday, April 7.—Light breeze from northward. Ship steering WNW. and W., with all sail set. At 3 p. m. steered E. Saw humpbacks to-day. Lat. 31° 00′ N.; long. 125° 24′ E.

Friday, April 8.—Light breeze from SW. Ship steering E., all sail set. At 3 p. m. steered NE. Saw nothing. Lat. 31° 00′ N.; long. 126° 32′ E.

Saturday, April 9.—Light breeze from southward. Ship on western tack with all sail set. Saw one finback. At 3.30 p. m. hauled out from northward, ship steering S. Lat. 31° 20′ N.; long. 126° 22′ E.

Sunday, April 10.—Strong breeze from NE. Ship steering SE. and SW., under short sail. Lat. 30° 55′ N.; long. 126° 06′ E.

Monday, April 11.—Strong breeze from eastward, with fog. Ship steering N., with all sail set. At 4 p. m. took in all sail. Ship on eastern tack. Wind SE. Lat 31° 34′ N.; long. 125° 54′ E.

Tuesday, April 12.—Fresh gale from NW., with rain. Ship on western tack under bare poles. No observations.

Wednesday, April 13.—Light breeze from northward. Ship on eastern tack. All sail set. Lat 31° 33′ N.; long. 126° 54′ E.

Thursday, April 14.—Fresh breeze from SW. Ship steering NNE., all sail set. At 5 p. m. steering NE. by E. ——— in sight. Lat. 32° 53′ N.; long. 127° 18′ E.

Friday, April 15.—Commenced with strong breeze from westward. Ship in Korea Straits on eastern tack. Later, wind very light from NE. Lat. 33° 41′ N.; long. 129° 18′ E.

Saturday, April 16.—Commenced with a calm. At 9 a. m. light breeze from eastward. Ship heading NE. Later on wind SW. Ship steering NE. and NE. by N., bound through the Korea Straits, eastern passage. Saw plenty of junks. Lat. 34° 09′ N.; long. 129° 44′ E.

Sunday, April 17.—Fresh breeze from SW. with heavy rain. Ship steering NE. by N. All sail set that will draw. At 3 p. m. wind hauled out from northward and westward. Took in light sails. No observations.

Monday, April 18.—Light breeze from NE. Ship on western tack heading NW. and NW. by N. All sail set. Saw one bark merchantman and finbacks. Lat. 36° 12′ N.; long. 131° 45′ E.

Tuesday, April 19.—Light breeze from SW. Ship steering NE. by E., all sail set. At 12.30 raised Daletts Island. At 4 p. m. raised Laincourt Rock. Ship steering E. by N. Employed in repairing mainsail. Later on ship steering NE. by N. Lat. 37° 00′ N.; long. 131° 32′ E.

Wednesday, April 20.—Fresh breeze from southward. Ship steering NE. by E. All sail set. At 8 a. m. raised the brig *William H. Myers.* Gave her report; seen one whale. *Morgan* clean; seen nothing. Saw plenty of finbacks. Later on ship steering N. for Vladivostock. Lat. 38° 15′ N.; long. 133° 37′ E.

Thursday, April 21.—Strong breeze from NE., with rain. Ship on northern and western tack. Saw a sail; did not make her out. No observations.

Friday, April 22.—Light breeze from southward. Ship steering N. and N. by E., all sail set. Saw plenty of finbacks, and brig *Myers* in sight, bound for Vladivostock. Lat. 40° 20′ N.; long. 132° 32′ E.

Saturday, April 23.—Light breeze from SW., W., and NW., with thick fog. Ship steering N. and N. by W. At 12 o'clock fog; cleared up at 3 p. m. Raised Asolk [*sic*] Island at 7 p. m., ship heading NE. by E. Askold Island [*sic*] light bearing N. No observations.

Sunday, April 24.—Commenced with thick fog, and heavy rain, and hail squalls.

Ship working in to Vladivostock. At 3.30 p. m., calm. Anchored the ship outside [illegible] well heaving the ship on rocks. At 5 p. m. got a breeze; hove up [illegible] At dark [illegible] light house, lying aback.

[illegible] Strong breeze from northward. Ship working in to Vladivo- [illegible] m. anchored outside the harbor in 13 fathoms of water. The brig [illegible] anchored here.

[illegible] Ship at anchor in Vladivostock. Employed in breaking out [illegible] for the leak; found it on the port side.

[illegible] Ship at anchor in Vladivostock. Employed in breaking out [illegible]

[illegible] Ship at anchor in Vladivostock. Weather thick, fog and [illegible] ready for sea.

[illegible] Ship at anchor in Vladivostock. Weather thick and foggy.

[illegible] Ship at anchor in Vladivostock. At 8 p. m. hove up anchor and went to sea. Wind from northward. Later on ship steering S. by E. *William H. Myers* went to sea to-day.

[illegible] Light breeze from northward; ship steering S. by E. and S. All sail set that will draw. Brig. *W. H. Myers* in sight. Lat., 41° 52′ N.; long., 132° 31′ E.

[illegible] Light breeze from eastward; ship on southern tack. Saw several [illegible] Later on wind southward; ship on eastern tack. Lat., 39° 36′ N.; long., [illegible] E.

Tuesday, May 3.—Fresh breeze from southward; ship on eastern tack, all sail set. *W. H. Myers* in sight. Saw plenty of finbacks. Lat., 39° 22′ N.; long., 134° 05′ E.

Wednesday, May 4. Light breeze from southward; ship steering different courses to northward and eastward. Saw brig *W. H. Myers* and a merchantman brig. Saw several finbacks. Lat., 39° 22′ N.; long., 134° 05′ E.

Thursday, May 5. Light breeze from NE; ship steering SW. All sail set. Employed in cleaning ironwork and making lower fore-top sail. Saw one junk and several finbacks. Lat., 39° 16′ N.; long., 135° 04′ E.

Friday, May 6. Commenced with light breeze from eastward, with fog at times; ship steering SW. At 2 p. m., wind hauled to NW; ship on western tack. Saw finbacks. Lat., 38° 17′ N.; long., 133° 46′ E.

Saturday, May 7. Fresh breeze from southward; ship steering different courses to westward. All sail set. Saw a few finbacks. Lat., 37° 51′ N.; long., 134° 22′ E.

Sunday, May 8.—Fresh breeze from SW; ship cruising. Saw several finbacks. Lat., 38° 10′ N.; long., 133° 46′ E.

Monday, May 9.—Light airs all round the compass; ship cruising. Saw nothing. Employed in breaking out provisions. Lat., 38° 22′ N.; long., 133° 03′ E.

Tuesday, May 10.—Calm all day. Saw plenty of finbacks and killers. No observations.

Wednesday, May 11.—Light breeze from NE. Ship steering NW. by N. All sail [illegible] several finbacks and seals. Later on, calm. Lat. 39° 38′ N.; long. 132° 15′ E.

[illegible] *May 12.*—Light breeze from southward. Ship steering NW. All sail set. At 12.30 raised the schooner *Mary H. Thomas* clean. Saw several finbacks. Lat. 39° 59′ N.

Friday, May 13.—Light breeze from southward. Ship steering SW. by W., WSW. Saw several finbacks. Lat. 40° 17′ N.; long. 130° 44′ E.

Saturday, May 14.—Light breeze from southward, with thick fog at times. Saw several finbacks and land—Cape Bruite. Lat. 40° 26′ N.; long. 130° 33′ E.

Sunday, May 15.—Commenced with a calm, and thick fog at times. At 4 p. m. a [illegible] breeze from SW. Ship cruising. Cape Broat and with rock in sight. Saw [illegible] of finbacks and sulphur-bottoms. Lat. 40° 42′ N.; long. 130° 06′ E.

Monday, May 16. Commenced with light breeze from southward, with light fog. Ship [illegible] NW. by N. and NNW. At 2 p. m. ship off Cape Korzakov, and steer- [illegible] Wind SW. and breezing up. Took in light sails. Saw a few finbacks. Lat. [illegible] N.; long 130° 12′ E.

Tuesday, May 17.—Strong breeze from SW. Ship steering E. by N. and NNE.; all sail set. At 6 p. m. luffed-to on southern tack under short sail. Saw a few fin- [illegible] Lat. 41° 50′ N.; long. 132° 58′ E.

Wednesday, May 18.—Commenced with a calm, and thick weather. At 3 p. m. [illegible] breeze from SW. and S. Ship steering N. by W. At sunset luffed-to on the [illegible] ern tack. Saw a few finbacks. Lat. 42° 10′ N.; long. 133° 22′ E.

[illegible] *May 19.*—Commenced with light airs from northward. Ship cruising [illegible] an Bay. Saw two junks, spoke one. Later on fresh breeze from south- [illegible] ard. Lat. 42° 40′ N.; long. 133° 13′ E.

Friday, May 20.—Commenced with light breeze from eastward, with thick fog.

Ship steering W. All sail set. Later on calm and thick fog and rain. At sunset light breeze from northward. Ship steering SE. with topsails and jib. No observations.

Saturday, May 21.—Commenced with a calm and thick fog. At 12 o'clock light breeze from SE. Ship on southern and western tack. Later fresh breeze and clear. No observations.

Sunday, May 22.—Strong breeze from SE., with thick, wet fog. Ship on northern and eastern tack under short sail. No observations.

P. S.—At 9.30 p. m., while taking in the foresail, Albert Iffts, man forward, struck Peter, a boat steerer. Mr. Griffiths, fourth officer, had to use force to stop them from fighting. Put Albert Iffts in irons from 10 p. m. till 6.30 a. m.

Monday, May 23.—Light breeze from ESE., with thick fog at times. Ship on southern tack under short sail. Saw nothing. Lat. 41° 27′ N.; long. 132° 02′ E.

Tuesday, May 24.—Light breeze from SE., with clear weather. Ship on northern and eastern tack; all sail set. Later on wind to southward. Saw nothing. Lat. 41° 7′ N.; long. 132° 06′ E.

Wednesday, May 25.—Light breeze from eastward, with thick fog. Ship on northern tack. No observations.

Thursday, May 26.—Light breeze from all round the compass, with thick fog at times. Lat. 42° 10′ N.; long. 132° 10′ E.

Friday, May 27.—Light breeze from northward and eastward, with rain all day. Ship heading SE. and E. Saw small seals. No observations.

Saturday, May 28.—Fresh breeze from the westward. Ship steering E. and SE. All sail set. Saw two merchantmen brigs and several finbacks. Lat. 41° 27′ N.; long. 133° 24′ E.

Sunday, May 29.—Light breeze from westward. Ship steering E. by S. All sail set; weather clear. Saw few finbacks. Lat., 41° 5′ N.; long., 135° 9′ E.

Monday, May 30.—Light breeze from westward, with clear weather. Ship steering E. by S. and E and E. by N. Saw nothing. Lat. 40° 46′ N.; long. 137° 09′ E.

Tuesday, May 31.—Light breeze from southward. Ship steering E. by N. At 1 p. m. raised *C. W. Morgan.* At 5 p. m. gained the *Morgan.* Reports two sperm whales, 180 pounds, seen. Right whales four times outside. Lat. 41° 10′ N.; long. 137° 10′ E.

Wednesday, June 1.—Light breeze from SE. Ship off Oe Island. On eastern tack. Employed in [illegible] ship and gaining *C. W. Morgan* and brig *Hidalgo;* two sperm whales, 50 pounds. No observations.

Thursday, June 2.—Fresh gale from S. and SW., with rain. Ship on western tack under short sail. *C. W. Morgan* and brig *Hidalgo* in sight No observations.

Friday, June 3.—Light breeze from southward and westward. Ship on westward tack; weather foggy. Saw nothing. No observations.

Saturday, June 4.—Light airs around the compass with thick fog. Employed in rigging new mainstay. No observations.

Sunday, June 5.—Fresh gale from NE. Ship steering W. Weather thick and raining at times. At 5.30 p. m. luffed-to on eastern tack. Saw three finbacks. No observations.

Monday, June 6.—Fresh breeze from WSW. with thick fog at times. Ship on northern and western tack. At 3.30 p.m. raised land bearing NW. by N. Later on thick fog. Lat. 42° 11′ N.; long. 134° 20′ E.

Tuesday, June 7.—Fresh gale from SW. with thick fog. Ship on northern and western tack under short sail. At 6.30 wore ship. Lat. at noon 42° 02′ N.

Wednesday, June 8.—Commenced with a calm. A thick fog at 8 a. m.; light breeze from eastward. Ship steering W. and WNW. Weather foggy at times. Saw nothing. At sunset ship on southern tack. Lat. 41° 57′ N.; long. 134° 38′ E.

Thursday, June 9.—Light breeze from all round the compass, and thick fog at times. Saw nothing. Ship cruising for clear weather. Lat. 42° 14′ N.; long. 133° 56′ E.

Friday, June 10.—Good breeze from westward with thick fog. Ship steering WNW. with top sails and courses and jib. Saw several finbacks and humpbacks. At 5 p. m. wore ship, took in sail. Ship heading SSW. Lat. 42° 22′ N.; no long.

Saturday, June 11.—Fresh breeze from WSW. Ship on different tack under short sail. Weather, thick fog. No observations.

Sunday, June 12.—Light breeze from southward with thick fog and rain. Ship on eastern tack under short sail. Saw several finbacks and sulphur bottoms. No observations.

Monday, June 13.—Fresh gale from eastward. Ship on southern tack. Saw two white waters. Lat. 41° 56′ N.; no long.

Tuesday, June 14.—Fresh gale from eastward. Ship on southward tack under short sail. At 12 o'clock wore ship. No observations.

Wednesday, June 15.—Fresh gale from eastward. Ship off Aslok Island. *C. W. Morgan* in sight, and a merchantman brig and schooner. Later on wind moderated down to light breeze from ESE. Ship on southern tack. All sail set. *Morgan* out of sight. Saw plenty of finbacks. No observations.

Thursday, June 16.—Dead calm all day. Land, *C. W. Morgan*, three-masted schooner, and a brig in sight. Saw several finbacks. Employed in breaking out provisions. Lat. 42° 16′ N.; long. 132° 14′ E.

Friday, June 17.—Light breeze from SW. with clear weather. Ship steering E. All sail set. Gaining the *Charles W. Morgan*. Land in sight. No observations.

Saturday, June 18.—Light breeze from westward. Ship steering ENE. Weather [illegible] light, *C. W. Morgan*, two schooners, steamer, and a square rigger. [illegible] N., long. 133° 01′ E.

Sunday, June 19.—Light breezes from southward and westward and calm at times [illegible] At 9 a. m. saw the land and one sail. Later on ship heading SE. No observations.

Monday, June 20.—Light breeze from eastward with thick fog and light rain. Ship lying around. No observations.

Tuesday, June 21.—Fresh breeze from NE. with thick fog and heavy rain. Ship on eastern tack. No observations.

Wednesday, June 22.—Good breeze from westward. Ship steering N. All sail set. Weather clear. Land and *C. W. Morgan* in sight; few finbacks. Lat. 42° 30′ N.; long. 133° 10′ E.

Thursday, June 23.—Light breeze from all round the compass, with thick fog and rain and thunder. Ship lying around under short sail. *C. W. Morgan* and land in sight. No observations.

Friday, June 24.—Light breeze from all round the compass, with clear weather. Ship cruising off America Bay. Have seen two sulphur bottoms. *C. W. Morgan* in sight. No observations.

Saturday, June 25.—Light airs from southward. Ship cruising. Later on light breeze from NNW. and W. Gained the *Morgan*. Have seen nothing. Ship off Asolk Island. No observations.

Sunday, June 26.—Light breeze from SW. Ship steering into Vladivostock. At 3 p. m. anchored in Vladivostock. *C. W. Morgan* at anchor.

Monday, June 27.—Ship at anchor in Vladivostock. Employed in getting water.

Tuesday, June 28.—Ship at anchor in Vladivostock. Employed in getting water.

Wednesday, June 29.—Ship at anchor in Vladivostock.

Thursday, June 30.—Ship in Vladivostock. Employed in giving liberty.

Friday, July 1.—Ship at anchor in Vladivostock. Employed in giving liberty. Weather, thick fog and blowing fresh gale from SE.

Saturday, July 2.—Ship at anchor in Vladivostock. Weather, thick fog and rain. Mail steamer came in to-day.

Sunday, July 3.—Ship at anchor in Vladivostock. Crew ashore on liberty.

Monday, July 4.—Ship at anchor in Vladivostock. Ship ready for sea. John McDonald deserted to-day.

Tuesday, July 5.—Ship at anchor in Vladivostock. Ready for sea. Fresh gale from SE., with thick fog at times and rain.

Wednesday, July 6.—Ship at anchor in Vladivostock. At 5 a. m. hove up anchor and went to sea, and *C. W. Morgan*. Later on light breezes from southward and eastward. Ship off Asolk Island.

Thursday, July 7.—Fresh breeze from northward. Ship off Asolk Island steering S. by E. At 9 a. m. raised right whale, island bearing NE., distant 5 miles. Lowered twice; did not get him. *C. W. Morgan* in sight. No observations.

Friday, July 8.—Very light breeze from westward. Ship steering E. Land, *C. W. Morgan*, and plenty of finbacks in sight. No observations.

Saturday, July 9.—Very light breezes from westward, with thick smoky weather. Ship steering NE. and ENE. and W., with all sail set. Land in sight. Lat., 42° 42′ N.; long., 133° 57′ E.

Sunday, July 10.—Strong breeze from SW., with thick fog at times. Ship steering ENE. and NE. by E. All sail set that will draw. Lat., 43° 18′ N.; long., 136° 48′ E.

Monday, July 11.—Light breeze from SW., with clear weather. Ship steering NE. by E. All sail set. Have seen nothing. No observations.

Tuesday, July 12.—Light breeze from northward and eastward. Ship on eastern and northern tack. Land in sight. Lat., 45° 06′ N.; long., 140° 03′ E.

Wednesday, July 13.—Light breeze from SW. Ship steering ENE. and E. by N. and E., going from Japan Sea into Okhotsk Sea. Lat., 45° 34′ N.; long., 140° 45′ E.

Thursday, July 14.—Light breeze from eastward and southward. Ship working into Okhotsk Sea. At sunset ship off Cape Siretoko. No observations.

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Friday, July 15.—Very light breezes from southward and eastward. Ship working to the eastward. Cape Siretoko in sight. Brig *Myers* in sight. Lat., 45° 33′ N.; long., 143° 28′ E.

Saturday, July 16.—Light breeze from southward. Ship on different tacks. At 9 a. m. gained the brig *Myers*. At 1 p. m. raised two right whales going quick to the eastward. Lowered, but no chance. Siretoko in sight, bearing N. by E., distant 40 miles. No observations.

Sunday, July 17.—Fresh breeze from southward. Ship steering NNE. At 3 p. m. hauled on eastern tack. Weather rainy. Cape Siretoko in sight and *Myers*. No observations.

Monday, July 18.—Strong breeze from SW. Ship on northern tack under short sail. Later wind moderated down to a calm. Cape Siretoko in sight, bearing W., distant 30 miles. Have seen few finbacks. Lat., 45° 59′ N.; no longitude.

Tuesday, July 19.—Light breeze from westward. Ship on different tacks, working to the westward. Have seen a few finbacks and sulphur-bottoms. Lat., 45° 42′ N.; long., 144° 24′ E.

Wednesday, July 20.—Light breeze from southward. Ship on western tack. At 7 p. m. gained the *Myers* and *Mary H. Thomas*. She has 31 seal skins. No observations.

Thursday, July 21.—Fresh breeze from southward and eastward. Ship on eastern tack under short sail. *Myers* and *Mary H. Thomas* in sight. Later on raining. Lat., 45° 25′ N.; long., 144° 04′ E.

Friday, July 22.—Light breeze from eastward. Ship on northern tack. Have seen a few finbacks. Lat., 45° 25′ N.; long., 145° 17′ E.

Saturday, July 23.—Light airs from SE. with thick fog. At 11.30 a. m. cleared up, and light breeze from SE. Ship steering ENE. and NE. and N. Have seen a few finbacks. Lat., 45° 36′ N.; long., 145° 29′ E.

Sunday, July 24.—Fresh breeze from southward. Ship steering NE. and E. and NE. and W. and WSW. Weather foggy at times. Have seen a few finbacks. Lat., 46° 40′ N.; long., 146° 40′ E.

Monday, July 25.—Fresh breeze from southward. Ship steering WSW., all sail set. At 8 p. m. wore ship. Cape Siretoko in sight, bearing W. by S., distant 20 miles. Have seen a few finbacks. 3 p. m. Lat., 46° 28′ N.; long., 144° 18′ E.

Tuesday, July 26.—Fresh breeze from southward. Ship on different tacks, cruising. Have seen a few finbacks. Cape Siretoko in sight. No observations.

Wednesday, July 27.—Fresh breeze from southward. Ship on western tack. Weather foggy with rain. At 3 p. m. fog cleared up. Wind light, from southward. Cape Siretoko in sight. No observations.

Thursday, July 28.—Light breeze from southward and eastward. Ship on southern and western tack. Weather foggy and raining at times. At 4.30 p. m. raised *C. W. Morgan* and brig *Myers*. Cape Siretoko in sight, bearing W., distant 20 miles. No observations.

Friday, July 29.—Fresh breeze from westward. Ship on southern tack. Gained the *C. W. Morgan* and brig *Myers*. Cape Siretoko in sight. Received 50 pickled potatoes. No observations.

Saturday, July 30.—Fresh breeze from SW. at times, and calm. Brig *Myers* and schooner *M. H. Thomas* and *C. W. Morgan;* spoke her. Cape Siretoko and Yesdo in sight. Have seen a few finbacks and sulphur bottoms. No observations.

Sunday, July 31.—Light breeze from southward and eastward. Ship steering W. by N. and NW. Land in sight and plenty of finbacks. Lat. 44° 47′ N.; long. 144° 22′ E.

Monday, August 1.—Light breeze from SW. Ship cruising. Cape Siretoko in sight. *C. W. Morgan*, brig *Myers*, and *Mary H. Thomas* had her boats down. Seen plenty of finbacks. Lat. 45° 24′ N.; no long.

Tuesday, August 2.—Light breezes from all round and calm at times, and foggy weather. *C. W. Morgan* and schooner and brig in sight. Cape Siretoko in sight, bearing NNW., distant 40 miles. At 4.30 raised right whale; lowered four boats. At 7 o'clock boats came on board; whale showed no chance. No observations.

Wednesday, August 3.—Light breeze from southward and eastward. Ship on northern tack. Have seen a few finbacks. No observations.

Thursday, August 4.—Fresh breeze from NE., with thick rainy weather. Ship on eastern tack. Have seen *C. W. Morgan* and a few finbacks. No observations.

Friday, August 5.—Calm about all day. Saw Cape Siretoko. At 3 p. m. light breeze from southward. Ship steering NE. At 4 p. m. raised *C. W. Morgan* and brig *Myers*. Lat. 45° 30′ N.; long. 144° 35′ E.

Saturday, August 6.—Fresh breeze from southward. Ship steering NE. and ENE. and E. and NNE. Have seen nothing. Lat. 46° 30′ N.; long. 146° 48′ E.

Sunday, August 7.—Good breeze from southward. Ship steering W.; all sail set. Have seen a few finbacks. Lat. 46° 57′ N.; long. 145° 37′ E.

Monday, August 8.—Fresh breeze from southward and eastward. Ship on western tack. Have seen nothing. No observations.

Tuesday, August 9.—Light breeze from southward. Ship on eastern tack. Have seen several finbacks to-day. Lat., 46° 27′ N.; long., 145° 7′ E.

Wednesday, August 10.—Fresh breeze from southward. Ship on western tack. Have seen several finbacks, and Cape Siretoko in sight at 7 p. m., distant 30 miles. At sunset shortening sail; 3 p. m., so end this day. Lat., 46° 10′ N.; long., 144° 40′ E.

Thursday, August 11.—Fresh breeze from SW., with rain, ship steering E. At 8 a. m. raised right whale going quick to E. by N. Lowered three boats. Long boat struck and lost him; iron drew; poor chance. No observations.

Friday, August 12.—Good breeze from NE., ship steering to eastward. At 10 a. m. raised right whale. Lowered four boats. Boats struck and took his line. Waist boat struck him; got him. At 4 o'clock commenced cutting. Got his head off and made fast for the night. Cape Siretoko in sight. Lat., 45° 54′ N.; long., 144° 52′ E.

Saturday, August 13.—Commenced cutting at 5 a. m. At 6 raised two whales. Let whales go and lowered four boats. At 11 a. m. boats came on board. Commenced boiling. Have seen three whales and plenty of finbacks, and whalebirds and blackfish. Cape Siretoko in sight, bearing WNW., distant 60 miles. Lat., 45° 37′ N.; long., 144° 49′ E.

Sunday, August 14.—Light breeze from westward, and calm at times, ship steering E. At 10 a. m. raised right whale. Lowered four boats. At 11.30 boats came on board. Employed in boiling. Lat., 45° 56′ N.; long., 144° 51′ E.

Monday, August 15.—Good breeze from eastward. Ship on northern tack. Employed in boiling. At 10.30 raised a right whale. Lowered four boats. At 4 p. m. came on board. Employed in boiling and stowing down. No observations.

Tuesday, August 16.—Strong breeze from eastward, ship steering W. Weather rainy. Employed in stowing down. At 10 a. m. raised the *C. W. Morgan* chasing whales; did not get any; gained the *Morgan*. No whales yet. No observations.

Wednesday, August 17.—Light breeze from westward, ship steering E. Employed in scraping bone. *C. W. Morgan* in sight. At 3.30 p. m. raised two whales. Lowered four boats. 4 p. m. thick fog. Wind from eastward. Boats came on board. Lat., 45° 57′ N.; long., 144° 50′ E.

Thursday, August 18.—Commenced with a strong breeze from southward. Ship steering W. Employed in washing bone. At 8 a. m. raised two whales going quickly to southward. Did not lower our boats. Later fresh gale from SW., heavy rain squalls. At sunset wind moderated down. Cape Siretoko in sight, bearing WNW., distant 20 miles. Have seen plenty of finbacks. No observations.

Friday, August 19.—Commenced with light airs from all around the compass, with light rain. Employed in washing bone. Ship lying around. Cape Siretoko in sight bearing W. by N., distant 25 miles. No observations.

Saturday, August 20.—Commenced with a calm. Employed in breaking out sail and rigging. Bent new fore-topsail and rove off new main gallant and main royal braces. Later on light breeze from eastward. Ship on southern tack. Cape Siretoko in sight. Lat. 46° 07′ N.; long. 144° 27′ E.

Sunday, August 21.—Fresh breeze from SE. Ship on southern tack. Weather foggy. At 11 a. m. wore ship. At 4 p. m. raised the *Morgan*. At 6.30 gained her; clean. No observations.

Monday, August 22.—Commenced with strong breeze from southward, with thick weather. Later on calm, with heavy rain. *C. W. Morgan* and Cape Siretoko in sight, bearing WSW., distant 30 miles. No observations.

Tuesday, August 23.—Fresh breeze from westward. Ship steering E. Employed in filling casks with salt water for ballast. Can't get whales enough to ballast the ship. At 2 p. m. raised dead sulphur bottom. At 3.30 p. m. raised two right whales. Lowered four boats. S. boat and W. boat darted. Did not get fast. So ends. Lat. 46° 11′ N.; long. 145° 52′ E.

Wednesday, August 24.—Fresh breeze from eastward, with thick, rainy weather at times. Ship steering west and south. Employed in repairing main gallant sail. At 1.30 p. m. raised right whale. Lowered four boats. Waist boat struck and killed him. Got him alongside sinking. Fluke rope parted, and we lost the whale. So ends having good luck. No observations.

Thursday, August 25.—Light breeze from eastward, with thick fog and rain. Later on wind from west, with thick fog. Ship on northern tack under short sail. So ends. No observations.

Friday, August 26.—Light breeze from southward. Ship steering NE. At 11.30 raised right whale. At 12 o'clock lowered four boats. Waist darted; did not get fast; whale heard the boat before he darted. Gained the schooner *Mary H. Thomas*. One whale, and sunk one.

Saturday, August 27.—Light breeze from westward. Ship steering E. *Mary H. Thomas* in sight. At 9.30 *Thomas* lowered her boats for a whale. Don't know whether he got him or not. Employed in drying bone. At 1 p. m. weighed the bone, 1,300 pounds. At 3 p. m. raised whale. Lowered four boats. Did not get him. So ends. Lat. 46° 37′ N.; long. 145° 54′ E.

Sunday, August 28.—Light breeze from southward. Ship steering E. At 8 p. m. raised whale. Lowered three boats. At 10 a. m. boats came on board. Ship steering E. At 2 p. m. thick fog with rain. Lat. 46° 57′ N.; no long.

Monday, August 29.—Fresh breeze from NE. Ship steering SW. At 2.30 p. m. raised whale. Lowered four boats. At 6.30 boats came on board. No observations.

Tuesday, August 30.—Strong breeze from SE. and S. Ship steering W. All sail set. At 12.30 raised right whale, going quickly to ESE. Did not lower. So ends. No observations.

Wednesday, August 31.—Strong breeze from SW. Ship steering E. under lower topsail and foresail. At 3 p. m. spoke the *Mary H. Thomas*. One whale. At 6 p. m., raised whale. Lowered larboard and waist boat. Waist boat struck and got him alongside at 9 o'clock. Lat. 47° 00′ N.; long. 146° 10′ E.

Thursday, September 1.—Strong breeze from SW. with heavy swell on. Employed in cutting. Have seen two whales to-day. Did not lower. Lat. 47° 16′ N.; no long.

Friday, September 2. Fresh breeze from northward with heavy swell on. Ship on western tack under short sail. Employed in boiling. Have seen a few finbacks. Lat. 47° 10′ N.; long. 146° 52′ E.

Saturday, September 3.—Strong breeze from SE. with heavy swell on. At 8 a. m. raised whales. Lowered four boats. At 11.30 came on board. At 2 p. m. lowered two boats. At 3 p. m. boats came on board. Whales wild. Have seen four whales to-day. Lat. 46° 47′ N.; no long.

Sunday, September 4.—Strong breeze from SE. with rain and fog and heavy thunder and lightning. Ship on eastern tack. Employed in boiling. At 7 p. m. finished; 125 barrels. Have seen a few finbacks. No observations.

Monday, September 5.—Fresh breeze from southward with fog and rain. Ship on eastern tack under short sail. Employed in stowing down. At 4 p. m. finished; 134 barrels. So ends. Lat. 47° 34′ N.; no long.

Tuesday, September 6.—Calm all day with thick rainy weather. Employed in scraping bone and soaking it. Lat. 47° 28′ N.; no long.

Wednesday, September 7.—Very light breeze from southward and eastward with thick cloudy and rainy weather. Ship on western and southern tack. Employed in washing bone. At 11.30 finished washing. Have seen (illegible). Lat. 47° 28′ N.; long. 146° 43′ E.

Thursday, September 8.—Fresh breeze from SSW. and SW. with thick cloudy weather. Ship on the eastern tack. All sail set. Have not seen anything. No observations.

Friday, September 9.—Commenced with light breeze from SW. with thick fog at times. At 11.30 wind NE. Ship steering W. Have seen plenty of finbacks. Lat. 46° 57′ N.; long. 147° 16′ E., 9 a. m.

Saturday, September 10.—Commenced with a calm, with a thick fog at times. At 3.30 a. m. a Russian officer from the schooner *Marie* came on board and ordered Captain Scullen on board the schooner *Marie*, and was told that we had no right to whale it in the Ochotsk Sea. Took crew and officers and put them on board the schooner. Captain Cobey and officers and crew of the schooner came on board the *Cape Horn Pigeon* and took charge. Later on at 10 a. m. made sail and steered WSW. bound for Vladivostock. Time ship was taken. Lat. 46° 30′ N.; long. 146° 35′ E.

Sunday, September 11.—Fresh breeze from northward and eastward. Ship steering W. by S. and WSW. All sail set. At 11 a. m. raised Cape Siretoko bearing W. At 7 p. m. Cape Siretoko bearing N. Ship steering W. by S. ½ S.

Monday, September 12.—Strong breeze from eastward. Ship steering WNW. At 3.30 a. m. came into Japan Sea. At 2 p. m. ship steering SW. by W. for Vladivostock. Later on weather thick, and rain. No observations.

Tuesday, September 13.—Fresh breeze from eastward, with rain. Ship steering SW. by W. All sail set. Later on wind from northward, with rain. No observations.

Wednesday, September 14.—Commenced with strong breeze from northward and westward. Ship steering SW. by W. At 10 a. m. wind moderated down to light breeze. At 1 p. m. ship steering W. by N. and N. Lat. 42° 23′ N.; long. 136° 48′ E.

Commenced with light airs from NE. At 11 a. m. light and westward. Ship steering NW. All sail set. Lat. 42°

Strong breeze from WSW. Ship on different tack, working Later, wind west and very light. Ship on southern Lat. 42° 58′ N.; long. 134° 27′ E.

Commenced with light airs from westward. At 8 a. m. Ship steering NW. by W. At 10 a. m. back rope parted. At 2 p. m. light breeze from NNE. Ship steering WNW. Commenced going west. Lat. 42° 20′ N.; long. 143° 13′ E.

Strong breeze from northward and westward. Ship work- At sunset Askold bearing NNW., distant 10 miles with topsails and course and jib. No observations.

Commenced with a calm. At 7 a. m. light breeze from N. At 10 a. m. fresh breeze from WSW. Ship steering Vladivostock. At 4 p. m. anchored in 8 fathoms of water. Had arrived with the crew all on board. Had taken one man treated for sore hand. Found the U. S. S. *Marion* in port.

0.—Ship at anchor in Vladivostock in 8 fathoms of water in naval officer Last night the crew was landed ashore from the and left without food or shelter, and finally was taken in by a who let them sleep in his storehouse. Cabled the report of the seizure of the ship to owners at 4 p. m., and to the United States minister at St. Petersburg. Wrote to the captain of the *Marion* protesting against the seizure of the ship, and and advice in the matter. Was this day asked for my log book charge of my ship. He told me the admiral of the port wished to crew are still with the Chinaman, who is feeding them. Sick man still So ends this day.

September 21.—Ship still at anchor in Vladivostock in 8 fathoms of water, and was shifted farther up the harbor during the day; and I went on board the ship at 4.30 p. m. and found my log book on board and took charge of the same. are complaining of want of food and proper shelter, but I can do nothing, in the hands of the Russian authorities, who do nothing for them. Made protest in behalf of myself and officers and crew, setting forth a full state- the facts of the seizure, which I took on board the *Marion*. This was signed and officers and witnessed by T. A. Herber, surgeon, and W. M. Crose, captain was not on board at this time. The captain of the *Marion* me that he could not act in this matter, as it was now in the hands of the minister to Russia, as I had cabled a report of the seizure to him. instructions from him and owners. So ends this day.

September 22.—Ship still at anchor in Vladivostock with a Russian officer Received a cable from the owners at 8 a. m., as follows:

for your needs. Have communicated Washington for release of your

"WING."

The crew are still in the Chinaman's care. Mr. Smith and chief officer, Mr. Young, this day to the jail to inquire why the crew had not been provided with food and quarters, as I was informed by the naval officer in charge of my ship that money provided for this purpose. The jail officials said that they had no room men and admitted that they had received the money, but said that they make arrangements to morrow for them. About 2.30 p. m. the admiral, under officer who seized my ship was serving, arrived in the port. About 10 the U. S. S. *Marion* went to sea for target practice. Will be back Sunday.

September 23.—Ship still at anchor at Vladivostock with Russian officer in I was asked to come on board my ship with several Russian officers, who that nothing was found on board for unlawful purposes, and gave me a translation of same.

September 24.—Ship still at anchor in Vladivostock with Russian officer in charge. At 1 p. m. crew had orders to go on board. Ship is not allowed to leave harbor, but took charge of the ship, but did not receive ship papers. Signed a that I would not leave the harbor until I received permission.

September 25.—Ship still at anchor in Vladivostock in charge of the crew sent for to go on board the Russian flagship, and was told to make claim for damages for seizing the ship.

26.—Ship still at anchor in Vladivostock in charge of the officers new main topsail and foresail.

Tuesday, September 27.—Ship still at anchor in Vladivostock in charge of officers and crew. This day handed in the claims to the admiral, amounting to $49,500 gold. Watch came on shore on liberty.

Wednesday, September 28.—Ship still at anchor in Vladivostock. About 9 a. m. an officer came on board and said that the ship was free to go to sea. Floated the ship down the harbor. Larboard watch came on shore on liberty.

Thursday, September 29.—Ship still at anchor in Vladivostock getting ready for sea. Received a letter from the admiral stating that I could go to sea. Sent on board 12 pickles of potatoes, 200 cabbages, and 2 cords of wood.

Friday, September 30.—Ship still at anchor in Vladivostock, all ready for sea.

Saturday, October 1.—Ship still at anchor in Vladivostock, ready for sea. At about 2 p. m. hove up anchor and went to sea. U. S. S. *Marion* went to sea to-day. At 7 p. m. off Askold Island, bearing SE. by E., distant 15 miles. Later on strong breeze from westward. Ship steering SE. by E. with topsails and courses.

Sunday, October 2.—Strong breeze from westward, with heavy sea on. Ship steering E. by S., with all sail that will draw. Bent new main lower topsail. Rove new wheel rope. Lat. 41° 47′ N.; long. 134° 31′ E.

Monday, October 3.—Fresh breeze from NW. Ship steering E. by S., with all sail set. Employed in repairing lower main topsail, rove off new lower fore topsail brace. At 12 o'clock ship steering E. by N. At 2.30 raised Osima Island, bearing ENE. Later on at 11.20 Oe Island, bearing N., distant 5 miles. Wind light. Ship steering SE. by E. Lat. 41° 10′ N.; long. 138° 29′ E.

Tuesday, October 4.—Commenced with light breeze from westward. Ship off Sugar-loaf Island and Ko Island, distant 4 miles, steering E. by N. for Isugar Strait. At 2 p. m. off Hakodate. At 5.30 p. m. ship through the strait. Ship steering E., with a good breeze from NW. At 3 p. m., lat. 41° 40′ N.; long. 140° 38′ E.

Wednesday, October 5.—Fresh breeze from northward and westward. Ship steering ENE. and E., with all sail set. Cape Yerimo in sight bearing WNW., distant 40 miles. At 4 p. m. land out of sight. Have seen plenty of sulphur bottoms to-day. Lat. 41° 35′ N.; long. 144° 44′ E.

Thursday, October 6.—Commenced with light breeze from NE. Ship on eastern tack, heading ESE., and SE. by E. All sail set. Later on calm. At 7 p. m. light breeze from NW., ship steering NE. At 12 o'clock wind from northward. Ship heading E. Lat. 41° 03′ N.; long. 146° 29′ E.

Friday, October 7.—Light breeze from northward. Ship heading E. and E. by S. All sail set. Have seen school of blackfish. Employed in scraping irons and spades and painting them. Lat. 41° 24′ N.; long. 148° 28′ E.

Saturday, October 8.—Fresh breeze from ESE. Ship on northern tack, heading NNE. and NE. All sail set. Later on wind SE. Ship steering NE. Lat. 42° 00′ N.; no long.

Sunday, October 9.—Strong breeze from southward. Ship steering NE. by E. All sail set. Later on at 3 p. m. took in light sails. At sunset wind the same. Later on raining. Lat. 44° 07′ N.; long. 151° 34′ E.

Monday, October 10.—Fresh breeze from southward and westward, with rain and thick fog. At 10 a. m. wind NW. and very light. Ship steering E. by N. ½ N. with all sail set. Lat. 45° 48′ N.; long. 155° 20′ E.

Tuesday, October 11.—Strong breeze from westward. Ship steering E. by N. All sail set. At 3 p. m. had a heavy rain squall, took in light sails. Later on ship steering E. by N. with whole main topsail and foresail. Lat. 46° 28′ N.; long. 158° 17′ E.

Wednesday, October 12.—Commenced with a fresh gale from WNW., with heavy rain squalls. Ship steering N. by E. and E. ½ N., with light sails furled. Lat. 46° 45′ N.; long. 163° 06′ ½ E.

Thursday, October 13.—Strong breeze from WNW. and NW. Ship steering E. ½ N. and E. by N., with all sail set. Had several heavy rain squalls to-day. Lat. 46° 30′ N.; long. 168° 00′ E.

Friday, October 14.—Light breeze from NW. and W. Ship steering N. by E. All sail set. Lat. 46° 34′ N.; long. 171° 48′ E.

Saturday, October 15.—Commenced with fresh ——— from southward. Ship steering E. by N. Later on fresh gale from SE. Ship under lower topsails and staysails. Ship heading ENE. and NE. by E. Later raining. At 9.30 p. m. wind hauled to westward. No observations.

Sunday, October 16.—Fresh gale from westward with rain and heavy sea on. Ship steering E. by N., with topsails and foresail and main gallantsail. Later, wind SE. and blowing hard. Lat. 47° 14′ N.; long. 178° 24′ E.

Monday, October 17.—Commenced with fresh gale from SE. with heavy rain. At 8. a. m. wind died out to a calm. At 12.30 wind NW. and blowing hard, with rain. Ship steering E. by N., with lower main topsail and staysail. Later on fresh gale from NW. Cross the meridian to-day. Lat. 46° 21′ N.; long. 178° 47′ W.

[illegible] Strong breeze from NW. and N., with clear weather. Ship [illegible] E. by N. ½ N., with all sail set. Lat. 47° 00′ N.; long. 174° [illegible]

[illegible] *18.*—Commenced with a calm. At 11 a. m. light breeze from [illegible] E. by N. ½ N. All sail set. At 4 a. m. fresh gale from SW. Ship [illegible] N. ½ N., with lower topsails and foresail. Raining hard at 9 p. m. [illegible] and blowing hard. Lat. 47° 01′ N.; long. 170° 50′ W.

[illegible] *October 19.* Strong breeze from westward. Ship steering E. by N., [illegible] all sail set that will draw. At 7 p.m. ship steering E. by N. ½ N. Lat. 47° 10′ [illegible]; long. 167° 18′ W.

Tuesday, October 20. Light breeze from SW. Ship steering E. by N. ½ N., with [illegible] sail set. Lat. 47° 06′ N.; long. 164° 23′ W.

Friday, October 21. Fresh breeze from SW. Ship steering E. by N. ½ N., with all [illegible] set. Later on ship steering E. Wind WNW., with hail squalls. Lat. 47° 16′ [illegible] W.

Saturday, October 22.—Strong breeze from WNW. Ship steering E., with all sail set that will draw. Later on the wind moderated down to a calm. At 7.30 p. m. light airs from southward. Later on wind NE. and N. and blowing hard, with heavy rain. Lat. 46° 17′ N.; long. 156° 45′ W.

[illegible] *October 23.* Heavy gale from northward and westward with heavy rain [illegible] top steering E. by S. and E., with lower main topsail and staysails. Later [illegible] N. and W., and moderating down to a strong breeze. No observations.

[illegible] *October 24.*—Strong breeze from SSW., with rain squalls. Ship steering [illegible] all sail set. Lat. 45° 00′ N.; long. 151° 58′ W.

Tuesday, October 25.—Fresh breeze from westward. Ship steering E., all sail set. Later on wind SSE. and SE. and light. Ship heading E. by N. ½ N. Lat. 44° 00′ N., long. 148° 07′ W.

Wednesday, October 26.—Fresh breeze southward. Ship heading NE. under short sail. At 2 p. m. wind hauled to SE., with rain. At 7 p. m. wind hauled to NE., with heavy rain. Ship heading SE. by E. No observations.

Thursday, October 27.—Commenced with fresh breeze from westward. Ship steering E. All sail set that will draw. Later on light breeze from northward and eastward. Ship heading E. by S. with clear weather. Lat. 44° 07′ N.; long. 144° 19′ W.

Friday, October 28.—Fresh breeze from NE. and N., and NW. and W., with thick fog. Ship heading SE. by E. and E. At 11 a. m. fog cleared up with a good breeze from SW. Ship steering E. by compass. Lat. 43° 00′ N.; long. 142° 22′ W.

Saturday, October 29.—Strong breeze from WSW. and SW. Ship steering E. by compass with all sail set, with rain squalls. Later on fresh breeze from WNW. with clear weather. Lat. 42° 05′ N.; long. 137° 54′ W.

Sunday, October 30.—Light breeze from WNW. with clear weather. Ship steering E. by compass with all sail set that will draw. Lat. 41° 07′ N.; long. 135° 18′ W.

Monday, October 31.—Light breeze from SE. Ship heading ENE. with all sail set. Lat. 40° 47′ N.; long. 133° 43′ W.

Tuesday, November 1.—Light breeze from SSW. and SW. with cloudy weather. [illegible] E. by N. and E. At 4 p. m. ship steering E. by S. All sail set. Lat. [illegible]; no long.

Wednesday, November 2.—Light airs from southward and westward. Ship steering E. by S. and E. ½ S. with all sail set. Lat. 40° 10′ N.; long. 130° 50′ W.

Thursday, November 3.—Fresh breeze from NW. and N. Ship steering E. by S. and E. ½ S. and E., with all sail set. Employed in washing ship. Have seen one merchantman bound to the NE. Lat. 39° 35′ N.; long. 129° 22′ W.

Friday, November 4.—Fresh breeze from northward, with wet fog at times. Ship steering E. and E. by N., all sail set. Have seen nothing. Hauled up the cable, and [illegible] it forward the windlass to trim ship. Lat. 38° 30′ N.

Saturday, November 5.—Light breeze from NW., with foggy weather. Ship steering E. by N., all sail set. At 7 a. m. steering E. At 1 p. m. captain went on board [illegible] *H. Thomas.* At 2 p. m. came on board again. Steered E. At 2.30 heard fog whistle on Point Ray. At 4 p. m. saw Point Ray, bearing N. At 6 p. m. took tug to go into San Francisco Harbor. At anchor in ——— ———. So ends this season with 2 whales and 2,600 pounds bone and 200 barrels oil.

T. SCULLUN.

[illegible] *Cape Horn Pigeon.*
[illegible] of William R. Wing.

[illegible] (initialed) W. F. C.

1.3. 2. 23

S Doc [illegible] 1

EXHIBIT V—Continued.

ANNEX 4—Continued.

Bark Cape Horn Pigeon—Owners' outward account, 1890, inward account, and interest account to January 30, 1890, with J. and W. R. Wing—Continued.

DR.

[illegible] and carriage for business	$21.00			
[illegible] & Bailey, storage goods at California	70.35			
[illegible], carting	15.50			
Exchange on drafts, $1,40; sundry telegrams, [illegible]	26.38			
		$565.61	$2.29	$8.40
Paid Weed & Kingwell, copper nails, etc	260.69			
[illegible] W. R. Wing, traveling expenses to and from California, and while there on business	102.00			
Paid [illegible] gallons oil, shooks, at 2½ cents	100.91			
[illegible] piece oak	6.00			
Paid new casks, bark Triton	22.91			
Paid labor, $25.21; W. Lewis, guns and lances, $69	96.21			
[illegible] services account, repairs, etc	5.50			
[illegible] pair opera glasses sent by Captain Scullen	19.00			
[illegible] oil, $3,75; telegram, $1.95	5.70			
[illegible] shooks, board, $8.25; labor, week, $117	125.25			
Dearborn, Carrigan & Co., iron spikes	59.50			
Andrews & Cornell, cooperage	63.98			
Telegram, $1.95; lag screw, etc., $3	4.95			
Oak lumbers, $5; repairs, $2; carting, 50 cents	7.50			
Telegram, $1.72; blocks, $5.45	5.17			
[illegible], $1.35; carting old metal, 50 cents	1.85			
Carting and wharfage, $2; labor, $77	79.00			
[illegible] Captain Scullen, home and return	120.00			
[illegible] gram, 75 cents; watching, $3	3.75			
[illegible] gram, $2.53; G. M. Josselyn & Co., $5.15	7.68			
[illegible] Frank & Co., carting casks	6.20			
Telegram, $1.30; watching, $1	2.30			
Carting, 50 cents; labor and watchman, $48	48.50			
Cornelius Holmes, try works	20.55			
[illegible] leather, $2.25; M. E. Mayhew, medicines, [illegible]	25.35			
Mr. Chadworth, watching	3.00			
G. M. Josselyn & Co., spikes, etc	5.15			
Labor, $51.50; T. Ogden, watching, $3	54.50			
Antone Lopez, labor	18.00			
Telegram, $1.80; C. L. Le Gal, blocks, etc., $2.75	4.55			
[illegible], telegram, 85 cents	56.60			
[illegible], Carrigan & Co., spikes and chandlery	127.10			
Copper labor, $3; L. Ford, sail, etc., $19.60	22.60			
Copper bolt and turpentine, $2; medicine, captain, [illegible]	2.50			
[illegible] hooks and thimbles	40.62			
[illegible] cents, pitch mops, $2.10	2.60			
[illegible], $75.70; turpentine, 75 cents	76.50			
[illegible] Street Iron Works, pumps	40.50			
Hooks and thimbles, 50 cents; S. E. Slade, lumber, [illegible]	8.20			
		1,626.10	2.29	24.12
Paid S. E. Slade & Co., lumber	4.65			
Christoffersen & Tway, blacksmithing, etc	382.57			
A. M. Shaw, painting cabin	18.35			
[illegible] Wilmore & Son, plank	29.63			
[illegible] J. W. Ganin & Co., hose, $12.60	108.75			
[illegible], Golcher & Co., powder, etc	19.60			
S. S. Arnheim, stationery, etc	2.10			
Oakland	6.00			
[illegible], $5; medicine, man hurt, $1.25	6.25			
[illegible], repairing sofa	6.25			
[illegible] Backman & Co., hose pipe, leads, etc	26.51			
[illegible], $1; iron tacks, 50 cents	1.50			
[illegible] $1.25; Lynde & Hough, fish, $22	23.25			
[illegible], oil tank	48.96			
G. M. Josselyn & Co., bar copper and plugs	7.76			
[illegible] natives, 75 cents; carting dirt, $1.15	1.90			
[illegible] Milling Company, flour	261.00			
[illegible] Blum & Co., beef and pork	237.50			
[illegible], Blum & Co., pigs and provisions	54.50			
[illegible] metal, 50 cents; marking irons, $1	1.50			
[illegible], 55 cents; labor, $1.25	1.80			
[illegible] week, $133.65; Murphy-Grant, dry goods, [illegible]	177.45			
[illegible] metal, 50 cents; iron rods, $1.10	1.60			
[illegible] natives to hospital	5.00			
[illegible] Fuller & Co., paints, etc	98.90			
A. Crawford & Co., boat compass, etc	15.00			

[a] Interest from Nov. 1, 1889.

EXHIBIT V—Continued.

ANNEX—Continued.

Bark Cape Horn Pigeon—Owners' outward account, 1890, inward account, and interest account to January 30, 1890, with J. and W. R. Wing—Continued.

DR.

1889. Mar. 26[a]	To Horn & Co., tobacco		$151.20			
	Watching dry dock, $3; repairing clock, $1.25		4.25			
	Simpson & Fisher, labor on sails		50.00			
	Charcoal		1.25			
	Bread, tea, and coffee, 35 cents; expense, captain, trunk, 50 cents		0.85			
	F. Gregg, sawdust, $2.50; Tubbs & Co., cordage, $65.31		67.81			
	Labor, $1; specie sent in ship, $100		101.00			
	Messenger, 50 cents; boating, $5		5.50			
	S. Ransom, watchman		225.75			
	A. Crawford, iron pump		25.00			
	S. S. Arnheim & Co., glass, etc		11.50			
	Eureka Restaurant, board, 5 Kanakas came and went in ship		112.50			
	W. E. Maher, oil clothing		29.10			
	H. L. Bunker, custom-house clearance		10.00			
				$2,343.99	$2.29	$31.77
	Paid Andrews & Cornell, cooperage		52.15			
	Paid L. Levy, tablecloths and boots		30.07			
	Christoffersen & Tway, blacksmithing		110.17			
	Telegram, $1; S. E. Slade & Co., lumber, etc., $12.95		13.95			
	A. H. Keys, meat, $9.24; Goodall & Perkins, water, $70.55		79.79			
	Dry Dock Company, dockage		204.80			
	Eclipse Cracker Company, bread		158.10			
	California Cap Company, bomb lances		38.22			
	Macpherson & Recker, vegetables, etc		86.68			
	L. Ford, bill chandlery, etc		104.92			
	Dillon & Co., repairing chronometer and barometer		21.00			
	T. P. H. Whitelaw, cordage, spikes, etc		123.70			
	Delano Bros., tinsmith and plumbers		205.00			
	Telegram, $1; labor for week, $209.25		210.25			
	Accidental Hotel, board, $53		53.00			
	L. Foster & Co., groceries, etc		564.25			
	State board harbor commissioners, dockage		61.00			
	Wharfage, $3.25; Simmons & Meyer, riggers, $391.50		394.75			
	Towage, $100; galvanized iron, $18.50		118.50			
	Telegram, $1.20; Antone Lopez, $4		5.20			
	Paid Wright, Bame & Co., chandlery, cordage, etc		704.78			
	Captain Scullun, board, $5; S. Sachman, liquors, $16.45		21.45			
	American Oil Company, white lead		19.50			
	Paid Clark & Webster, bill repairs:					
	San Francisco Lumber Company, stock	$631.89				
	Chas. F. Doe, lumber	290.73				
	White Bros., oak lumber, etc	558.22				
	Simpson Lumber Company	19.17				
	S. E. Slade Lumber Company	16.87				
	Ship carpenter, labor	4,761.75				
	Ship calker, labor	1,191.75				
	Spinning oakum	72.25				
	Use pitch heater	35.75				
	Ship joiners, labor	520.00				
	Sundry mill work	67.23				
			8,159.61			
	Paid James Saffin, advances		1,680.00			
	Paid advances additional by W. R. Wing		1,232.75			
				14,458.89	2.29	214.47
1890. Jan. 30	N. B. Copper Company, yellow metal on bottom		790.25	790.25	.....	.....
	Balance interest account		.....	441.06	.....	.....
	2½ per cent commission on outfits, $23,217.03		.....	580.42	.....	.....
			.....	24,238.51	.....	458.90

[a] Interest from Nov., 1889.

EXHIBIT V—Continued.

Annex 5.

Bark Cape Horn Pigeon—Owners' outward account, 1891, inward account, and interest account to February 10, 1891, with J. and W. R. Wing.

Cr.

	By sale goods at San Francisco, Cal.:			
	815 gallons new casks	$48.90		
	1 davit, bark B. Billow (secondhand)	16.00		
	Cedar boat	40.00		
	Sale of casks	201.26		
	Sale of barrels pork and casks	82.58		
	Beef boards	11.90		
	1 darting gun	25.00		
			$428.64	$3.90	$7.08
	Per goods left over at San Francisco, transferred to account outward, 1892.				
	Old oil casks	124.94			
	1 chain cable	110.62			
	2 strings new shooks, 10,224 gallons	511.20			
	60 bomb lances	60.00			
			806.76		
	Sale 1,220 gallons new casks		70.16	3.90	1.16
	Balance interest account to debit				182.33
	By balance to debit owners' account	10,053.24			
	One-thirty-second share $314.16		10,053.24		
	One-sixteenth share 628.33				
	One-eighth share 1,256.66				
	One-fourth share 2,513.31				
	Two-thirds-sixty-fourths share 1,727.90				
			11,358.80		190.57

Dr.

	1 box whale craft at San Francisco		$30.00	$12.10	$1.85
	Per goods sent to San Francisco, Cal.:				
	Paid W. H. Crook, boat davit	$17.50			
	Painting davits	.75			
	W. Bayliss, beef, pork, and hams	513.88			
	George Bros., 1 boat	90.75			
	Geo. W. Farnham, 1 boat	95.00			
	J. M. Hart & Co., ducks, etc	46.51			
	Cummings, Kingman & Co., nails	5.71			
	J. and W. R. Wing & Co., clothing, etc	451.76			
	Cedar boards	11.25			
	Casks for meat, $9.60; pemmican, $21.60	31.20			
	S. B. Cordage Company, cordage, etc	198.15			
	1 Pierce, 1 darting gun	25.00			
	Joel Allen, casks and labor	751.00			
	J. Hall & Sons, chain cable	110.62			
	Labor on boat boards	.90			
	Wharfage goods shipped, $3.87, 15 cents, 30 cents	4.32			
	Blacking iron	1.00			
	Insurance goods to San Francisco, $31.05, $1.25	32.30			
	James Duddy, carting	2.25			
	Boat bushings	$1.90			
	Ship C. Dennis, freight, 1 boat	40.00			
	Ship Alex. Gibson, freight, goods	336.85			
	Boat bushings	1.86			
	Storage goods	.75			
			2,777.21	10.90	143.02
	Telegram account, officers	1.83			
	Passage and expense, first mate, to California	76.50			
	Expense account, officer	7.56			
	Paid wharfage, goods at California	2.05			
	Carting goods, $36.05, $22.10	58.15			
	Freight, 9 cents, fire insurance, $8.72	9.30			
			155.39	2.22	2.12

[a] Interest from Jan. 11, 1891.

[b] Interest from Nov. 1, 1890.

EXHIBIT V—Continued.

Annex 5—Continued.

Bark Cape Horn Pigeon—Owners' outward account, 1891, inward account, and interest account to February 10, 1891, with J. and W. R. Wing—Continued.

Dr.

1890. Nov. 18[a]	To goods sent to San Francisco, Cal.—Continued.				
	Paid expenses at San Francisco in refitting vessel:				
	Weed & Kingwell, repair pump	$4.00			
	Wright, Bame & Co., wire rigging	7.50			
			$11.50	$3.90	$0.20
	Wright, Bame & Co., towlines, oars, cordage, chandlery, etc	531.83			
	2,723 gallons new casks	196.56			
	1 lot secondhand sails	39.00			
	Storage at California	.75			
			728.14	3.90	12.01
	Paid A. Crawford, chandlery	6.00			
	½ round-trip ticket, captain, to Boston	93.00			
	Paid Hanks, $1.50; Hanks, $6.30	7.80			
	Carting, 75 cents; rigging leather, $5	5.75			
	Andrews & Cornell, shooking casks	24.65			
	Andrews & Cornell, setting up shooks	17.28			
	Labor, $149; sawdust, $2.50	151.50			
	Clabrough, Golcher & Co., ammunition	7.28			
	Hose coupling, 25 cents; medicine, 50 cents	.75			
	Paid steward, labor, $5; telegram, $1.08	6.08			
	W. H. Young, watchman	12.00			
	Boating, $3; hay fenders, $3	6.00			
	Twist drills, $2; boating, $2.50	4.50			
	Labor, cook in stream, $3; $2	5.00			
	Specie sent in vessel	100.00			
	Board State harbor commissioners, dockage	24.00			
	H. Peterson, boating, $4; telegram, $1	5.00			
	Labor, week, $31; boating, 50 cents; carting, $2	33.50			
	Captain Scullin, board	3.00			
	Watchman	12.00			
	S. E. Slade & Co., lumber, $12.10	12.10			
	Wilson & O'Brien, coal	1.50			
	J. W. Gann & Co., suction hose, etc	31.85			
	Stockton Milling Company, flour	193.50			
	Whittier, Fuller & Co., paints, oils, etc	58.11			
	Murphy, Grant & Co., dry goods	71.81			
	Clark & Webster, ship carpenters and calkers, on repairs	201.28			
	Wharfage, $4.25; hardware, etc., $14.10	18.35			
	Christoffersen & Tway, blacksmithing	66.55			
	Captain Scullin, board, Russ House	5.00			
	Goodall, Perkins & Co., water	37.00			
	Lynde & Hough, bill fish	20.00			
	C. L. Legal, repair pumps	10.25			
	J. Wigmore & Sons, oak boards, etc	35.61			
	California Cap Company, filling bomb lances	30.13			
	S. S. Arnheim, stationery and glasses	15.50			
	O. H. Keys, provisions in stream	10.24			
	James Henry Wood	17.00			
	Dillon & Co., glasses, charts, and repairs, etc	51.50			
			1,440.37	3.90	23.76
	Paid American Biscuit Company, bread	114.19			
	W. E. Mayhew, replenishing medicines	22.00			
	E. H. Bucknam & Co., lanterns, etc	8.25			
	Delano Bros., caboose ironware, etc	26.80			
	McPherson & Rucker, potatoes and vegetables	120.55			
	L. Foard, manila rope	5.00			
	S. Lachman & Co., liquors	16.15			
	Merchant tugboat, towage	40.00			
	Wilde & Spear, repair stoves, etc	22.12			
	Simpson & Fisher, topsail, etc	59.10			
	H. S. Bunker, custom entry	10.00			
	Roth, Blum & Co., beef, bacon, etc	137.50			
	L. Levy, oil clothes and boots	60.00			
	S. Foster & Co., groceries, etc	788.72			
	C. E. Haseltine & Co., carting	2.50			
	Bill, carting casks	6.00			
	Share telegrams $22.05, H. Kessake, carting, $12	34.05			
	Use horse and carriage $24.98, labor $3.08	28.06			
	Haslett & Bailey, storage	8.25			
	W. H. Crook, carpenter, labor	60.04			
	B. F. Wing, shipkeeper, labor	33.88			
	Bomb lances, $75; oil casks $1.25	76.25			
	Yellow metal, $5.58	5.58			
	10 bomb lances	50.00			
	30 bomb lances	75.00			
	900 gallon oil cask, 1¼ cents	11.25			
	Sundry labor, etc., at times	38.37			

EXHIBIT V—Continued.

ANNEX 5—Continued.

Cape Horn Pigeon—Owners' outward account, 1891, inward account, and interest account to February 10, 1891, with J. and W. R. Wing—Continued.

DR.

	To goods sent to San Francisco, Cal.—Continued.				
	Advances, officers and crew	$3,212.62			
			$5,293.17	$3.90	$4.84
	Drawbill, C. T. Berse, first mate, accepted		300.00		
	Share Wm. R. Wing expenses to and from California, account ship business		168.09	3.90	2.77
Feb. 10	Balance interest account to date		182.33		
	5 per cent on payments $10,903.87		272.60		
			11,358.80		190.57

* Interest from Nov. 1, 1890.

(E. & O. E.)

NEW BEDFORD, *February 10, 1891.*

Case: *Cape Horn Pigeon.*
Deposition of William R. Wing.
Exhibit 6.
(Initialed) W. F. C.

ANNEX 6.

Cape Horn Pigeon—Owners' outward account, 1892, inward account, and interest account to January 20, 1892, with J. and W. R. Wing.

CR.

	By allowance on bill paid		$0.88	$8.28	$0.04
Nov. 20*	Rebate on freight, 1 boat		2.00	7.21	.08
	Sales at San Francisco, Cal:				
	Old cable	$27.90			
	Old rope, etc	3.70			
	1 pair opera glasses	10.00			
	New casks to C. W. Morgan	238.43			
	New casks to Alice Knowles	17.11			
	New casks to Alen Barker	77.11			
	Casks pork and casks	123.90			
			498.48	2.19	6.56
	Balance interest to debit				267.72
189[illegible] Jan. 20	By balance to debit owners' account due this date		10,208.55		
			10,709.91		274.40
	One sixty fourth share	$159.51			
	One twenty second share	319.02			
	One eighth share	1,276.07			
	Twenty sixty fourths shares	1,754.58			
	Twenty sixty fourths shares	2,552.13			
	Twenty sixty fourths shares	1,595.08			

* Interest from Jan. 11, 1891.

[Sailed from San Francisco, Cal., December 7, 1891.]

DR.

	Casks for oil casks at San Francisco, from last outfit account, on hand		$124.94	$11.10	$7.09
	New hooks, chain cable, bomb lances		681.82	11.10	38.65
	[illegible] packing boat boards, $1.20; boat [illegible]	$14.70			
	[illegible] boat, painting davits, 20 cents	100.20			
	[illegible] beef and pork	460.00			
	[illegible]; hams, [illegible]	69.00			
	[illegible] goods (marine) at California to January	18.57			

EXHIBIT V—Continued.

ANNEX 6—Continued.

Bark Cape Horn Pigeon—Owners' outward account, 1892, inward account, and interest account to January 20, 1892, with J. and W. R. Wing—Continued.

DR.

1891. Mar. 6	To telegram, 7 cents; pemmican meat, $20.16	$20.23			
	N. B. Cordage Company, cordage	250.01			
	Wharfage goods, $3.53; duck and twine, $14.74	18.27			
	Whalecraft, $32.08, carting $8.10	40.18			
	Paid Cornell & Co., coopers, at California, labor making over 10,975 gallons oil shooks, and shooking 1 gang shooks (stored free expense)	341.25			
	1 whaleboat, $90; shiving 2 davits, $4	94.00			
	J. and W. R. Wing & Co., clothing, etc	496.78			
	$2,000, insuring goods to California (marine)	2.00			
	Robert Allan, Shooks and labor	558.48			
	Bomb gun, $25; boat trimmings, $3.26	8.26			
	Boat trimming, $2.15, wharfage goods, $1.50	5.65			
	Ship Com. T. Hallen, freight goods	10.00			
	Ship Parthia, freight goods	12.00			
	Ship Iroquois, freight goods	272.75			
			$2,682.79	$10.14	$140.41
Oct. 5	To storage goods at California to Jan. 10, 1892		19.27	3.15	.34
Nov. 10*	To paid telegrams at times, account business		15.46	2.10	.18
	To paid sundry bills at San Francisco:				
	Wharfage, 45 cents; towage boats, $2	2.45			
	Cornell & Co., coopering goods	10.70			
	McNab & Smith, carting goods to store	18.72			
	Insuring goods, fire in storehouse	9.00			
	City tax, 33 cents, storage boats, $3	3.33			
	Bomb lances, $11.20; office rent, $2.84	14.04			
	Wright, Bane & Co., chandlery, etc	171.15			
	H. Kissane, carting bill	16.00			
	Storage goods to December, 1891, $13.75, $34.67	48.42			
	Whittier, Fuller & Co., paint and oil	150.20			
	Cornell & Co., storage and freight paid	15.15			
	Use team, $18.45; labor, B. F. Wing, $60.77	79.22			
	Share expenses, Wm. R. Wing, to and from California	116.75			
	Labor, $8.05; E. Pierce, gun and lances, $50	58.05			
	A. B. Copper Co., metal used at California	81.05			
	Paid share ticket and expenses Captain Scullun, home and return	117.00			
	Telegram, $1.50; carting, 50 cents; hay fenders, $3	5.00			
	Coopering, $12; old lumber at wharf, $8	20.00			
	J. W. Shieve, powder	7.00			
	Labor for week	208.00			
	Tubbs & Co., cordage	137.25			
	Cornell & Co., coopering on shooks	72.77			
	James Henry, oak wood	17.00			
	State board harbor coms., dockage	16.10			
	J. W. Gawin and Co., hose, etc	11.85			
	Labor, $37.50; carving name on bow, $5	42.50			
	Watchman, $3; watchman, $3	6.00			
	H. N. Cook, oil hose	23.60			
	Mr. Peckham, labor	36.00			
	Murphy Grant Company, recruits	92.87			
	Tablecloth, $2.35; cook in stream, $10.50	12.85			
	Clark & Webster, carpenters and calkers	162.22			
	American Lumber Company, pine	10.18			
	California Cap Company, filling lances	50.00			
	Goodal, Perkins & Co., water	68.00			
	J. C. Wilson & Co., coal	1.80			
	White Brothers, oak lumber	8.12			
	Christoffersen and Tway, blacksmiths	41.63			
	Sail needles, palms, etc., $1; boating, $2	3.00			
	Telegram to master, $1.50; cooking in stream, $7	8.50			
	Specie sent in ship	100.00			
	Paid balances, $1.25; labor in stream $6	7.25			
	Boating, $1.50, watchman in stream, $[illegible]	75.50			
	Dillon & Co., marine glass and tele glasses	55.00			
	L. Foard, mast hoops and blocks	17.06			
	Delano Brothers, coppersmiths' bill	75.93			
	Russ House, master's board	12.00			
	O. H. Keys, meats and vegetables in stream	31.64			
	Telegram, $1; stationery, etc., $3.85	4.85			
	Lynde & Hough, codfish	21.00			
	Boating, $6; labor, $1	7.00			
	E. E. Hitch, sail bill	59.[illegible]8			
	Paid Simpson & Fisher, mates' boat sail	20.00			
	Stockton Milling Co., flour	153.00			

* Interest from Jan. 11, 1891.

EXHIBIT V—Continued.

ANNEX 6—Continued.

Bark Cape Horn Pigeon—Owners' outward account, 1892, inward account, and interest account to January 20, 1892, with J. and W. R. Wing—Continued.

DR.

	[illegible] sundry bills at San Francisco—Continued.				
	[illegible]brough, Golcher & Co., repairs to gun	$0.97			
	W. E. Mayhew, medicines	25.20			
	S. Lachman & Co., liquors	16.45			
	Macpherson & Rucker, potatoes and vegetables	92.04			
	[illegible] Barker, custom entry	10.00			
	[illegible], Bano & Co., provisions	175.09			
	[illegible]rican Biscuit Co., bread	246.12			
	L. Levi, oil clothing	46.08			
	Merchants' Tow Boat Co., towage	90.00			
	[illegible] Losier & Co., groceries, etc	754.90			
	[illegible] & Kingwell, coppersmiths' bill	.75			
	[illegible] looking after goods, free, N. B.	1.00			
	[illegible] Cornelius Eustacia, account advance	30.00			
	Paid advances to officers and crew	2,550.00			
1892. Jan. 20	To paid balance interest account to date		$4,211.60	$2.19	$55.46
	To paid 2½ per cent commissions on outfits, say, $10,187.50		267.72		
			254.69		
			10,709.91		274.40

[a] Interest from Jan. 11, 1891.

(E. & O. E.)
NEW BEDFORD, *January 20, 1892.*
Case: *Cape Horn Pigeon.*
Deposition of William R. Wing.
Exhibit 7.
(Initialed) W. F. C.

ANNEX 7.

Bark Cape Horn Pigeon and owners. Outward account, 1893, inward account, and interest account to February 1, 1893, with J. and W. R. Wing.

CR.

	By [illegible] old junk	$9.50			
	Clothing sold at California returned, less freight				
	Expenses on same	310.69			
	[illegible] cedar boards	26.52			
	[illegible] casks to different vessels	516.14			
	[illegible] hang shooks, new	228.54			
	[illegible] boat davits	56.00			
	Balance interest account to debit		$1,177.39	$2.11	$13.93
189[illegible]					214.66
	By balance to debit, owners' account		11,415.84		
	One [illegible]xty fourth share	$178.38			
	One [illegible]rty second share	356.71			
	One sixteenth share	713.49			
	[illegible] fourth share	1,426.98			
	Eleven sixty fourth share	1,962.10			
	[illegible]ty sixty-fourth share	3,567.45			
			12,593.23		228.59

[a] Interest from Nov. 20, 1892.

1.3.2.37

EXHIBIT V—Continued.

ANNEX 7—Continued.

Bark Cape Horn Pigeon and owners. Outward account, 1893, inward account, and interest account to February 1, 1893, with J. and W. R. Wing—Continued.

[Sailed from San Francisco, Cal., December 30, 1892.]

DR.

1891. Dec. 31	To paid whaleboat, trimmings sent out		$1.25	$13.00	$0.07
1892. Mar. 17	To paid insuring goods to California, ship A. Obrig	$2.70			
	Paid 2 whaleboats, $215; nails, $5.71	220.71			
	Paid Wm. Bayliss, provisions	160.00			
	Paid labor on boat, bottoms, and davits	3.21			
	Cedar boards, $9.48; paint on davits, 87 cents	10.35			
	2 davits, $34; R. Allan, shooks, $196.65	230.65			
	Duck, twine, etc., $36.14; wharfage goods, $3.10	39.24			
	Paid J. and W. R. Wing & Co., clothing, etc	115.02			
	N. B. Cordage Co., cordage	278.22			
	Insuring goods to California, ship Bohemia	20.25			
	E. B. and F. Macey, whalecraft	27.26			
	Pemican meat, $20.16; T. A. Chadwick, casks, $46.37	66.53			
	Shelving davits, $4; E. Pierce, guns, lances, $25	29.00			
	Jas. Duddy, carting, $6.25	6.25			
			1,839.39	10.14	96.24
June 1	To paid Cornell & Co., labor remaking over oil casks at California, stored there		200.61	8.00	8.04
Aug. 1[a]	To paid freight goods California, ship A. Obrig	40.00			
	Paid freight goods California, ship Bohemia	261.51			
			301.51	6.00	9.60
	To paid expenses at San Francisco in refitting vessel, etc.:				
	Paid half expenses Captain Scullun home	108.50			
	Diaphram pumps, $9.80; hay fenders, $3	12.80			
	Labor, Griffiths, $3.50, charcoal, $1.20	4.70			
	S. H. Frank, leather, $5; C. Holmes, tug works, $12	17.00			
	Blocks, $5; labor, week, $73.25	78.25			
	2 pairs opera glasses, $23; coopering, $64.66	87.66			
	Coopering, $41.64, ironwork for topmast, $35	76.64			
	W. E. Mayhew, medicines, $21.90; labor, week, $66	87.90			
	California Cap Company, filling bomb lances	50.00			
	Freight on lances, $1.49; plank, 85 cents	2.34			
	Milton Andros, blank forms	5.00			
	Miller, Sloss, & Scott, hardware, etc	36.21			
	San Francisco Lumber Co., lumber	4.16			
	Murphy, Grant & Co., recruits	59.85			
	Labor, week, $49.50; Phelps, labor, $2	61.50			
	Goodal, Perkins & Co., water	13.38			
	Whittier, Fuller & Co., paints, etc	75.63			
	Cornell & Co., cooperage, $50.77; ash bill, $15	65.77			
	Wood, $26; bread, $152.26	178.26			
	Flour, $231; labor, $4	235.00			
			1,290.55	2.11	15.28
	Paid freight 1 cask clothing, per A. B., adjusted in payment new cask clothing	26.06			
	Paid watching, $18; labor, $17.50	35.50			
	Chittenden, Golcher & Co., powder	8.[illegible]			
	Labor, steaming vessel, $5; telegram, 50 cents	5.50			
	Specie sent in ship	100.00			
	Labor, Margaritta, $5; sailmaker, $5	20.00			
	[illegible] labor	[illegible].00			
	Cook, labor, $5; boating, $1	6.00			
	Carting, $1; watching, $3	4.00			
	[illegible] Robinson, watching	12.00			
	Delano Bros., ship plumbers	66.9[illegible]			
	Clark & Webster, ship carpenters	[illegible]			
	[illegible], $8; stationery, $3.50	11.50			
	Board bar[illegible]	[illegible].00			
	Tools, $[illegible]	7.88			
	[illegible]	[illegible].00			
	[illegible]	48.89			
	[illegible]	10.50			
	[illegible]	[illegible].50			
	Liquor [illegible]	29.52			
	Dodson & Co., [illegible]	53.75			
	L. Levi, oil [illegible]	46.08			
	C. J. Haverside, riggers' bill	12.37			
	Cottell, for labor on goods sent out	1.00			
	L. Foard, ship chandlers, etc	227.00			

[a] Interest from Nov. 20, 1892.

EXHIBIT V—Continued.

ANNEX 7—Continued.

Bark Cape Horn Pigeon and owners. Outward Account, 1893, inward account, and interest account to February 1, 1893, with J. and W. R. Wing—Continued.

DR.

[illegible] expenses at San Francisco in refitting vessel, etc				
[illegible]r & Co., groceries, etc	$767.89			
[illegible]con, repairs to machinery, etc	12.35			
W[illegible]con, labor on boiler and pump	810.29			
[illegible] owners' Tug Company, towage	50.00			
[illegible]son & Rucker, vegetables	103.17			
[illegible] Blum & Co., provisions, etc	235.00			
[illegible] Blum & Co., provisions	71.97			
[illegible]n & Co., 1 chronometer	145.00			
Cook, labor, $5; labor, week, $172	177.00			
Tax, goods California, 54 cents; insurance, fire, goods at California, $6.49	7.03			
Cartage goods, $15.85, storage boats, $1.50	17.35			
Wright, Bame & Co., chandlery	295.56			
J. and W. R. Wing & Co., clothing sent by rail	251.89			
Carting, 75 cents; telephone service, 95 cents	1.70			
		$4,466.05	$2.11	$52.84
Paid office rent, $4; carriage hire, $18	22.00			
Freight, lances, 85 cents; cartage goods, $3	3.85			
Storage goods, 1892, in warehouse	27.78			
[illegible] Pierce lances and guns	110.00			
[illegible] pair opera glasses, for Chadwick	16.00			
[illegible] A. Chadwick, 1 cask for clothing	7.58			
Paid ticket expenses, first mate to California	135.00			
[illegible] ticket, Boston to Chicago, 1st mate	5.40			
Paid casks transferred from other vessels	303.96			
2nd share, W. E. Wing, expenses to and from San Francisco, and while there on business connected with ship	153.68			
Paid B. F. Wing, services at California	58.56			
Paid sundry telegrams to and from California on account ship's business	51.74			
Paid sundry items to balance cash account shortage of Wm. R. Wing, payments	19.66			
Paid advance orders to J. Laflin, officers, and crew	2,000.00			
Paid additional advances to officers, etc., by Wm. R. Wing	1,064.95			
		3,977.26		
1893 Feb. 1 Balance interest to date		214.66		
To 5 per cent commission on disbursements account [illegible]		301.92		
		12,593.23	.....	228.59

[a] Interest from Nov. 20, 1892.

(E. & O. E.)
NEW BEDFORD, *February 1, 1893.*

ANNEX 8.

Captain and owners *Cape Horn Pigeon* in account with the undersigned:

DR.

	Roubles.
To bill cheap jack for expenses of officers and crew while on shore	388.88
To bill cheap jack for provisions	108.27
To cash to captain	520.00
[illegible]	535.50
To [illegible] time	229.53
	1,482.18

Roubles 1,482.18 at exchange 54 per cent = gold dollars 800.38.

VLADIVOSTOCK, *September 30, 1892.*

[illegible] the above account is correct.

THOMAS SCULLUN,
Master Cape Horn Pigeon.

1. 3. 2. 31

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EXHIBIT V.

ANNEX 9.

[Copied from New Bedford Whalemen's Shipping List of December 7, 1875.]

"Important to whalers: Captain Spencer, of the British whaling bark *Faraway*, at Shantan Bay, September 1, was boarded by a Russian war steamer and served with the following notice:

"1. Foreign whaling vessels can not enter into any of the gulfs or bays, nor approach nearer than 3 miles to the coasts and islands belonging to us in the seas of Bering and Ochotsk, for the whale fishery in the gulfs, bays, and straits, and within a distance of three miles from the coasts and islands mentioned is granted exclusively to Russians.

"2. Foreigners can not land on our coasts or islands without the permission of the chief of the place, neither for supplies or wood nor to melt down the fat of whales. This permission should be obtained from the governor-general of the Primorskara Ablast at Vladivostock or Petropavlovski.

"3. Captains of foreign vessels are forbidden under any circumstances to leave their sailors in any uninhabited place within Russian territories as a punishment for breaches of discipline. For this purpose, and for repairs, for victualling, and for other necessaries, Petropavlovski, the port of Kamschatka, is open to foreign vessels. During their anchorage in that port they are forbidden to carry on the whale fishery, and they should submit themselves to and carry out all the regulations and laws of that port."

Captain Spencer reports that the water was alive with whales, and he urgently solicited the privilege of remaining twenty days, but the commander of the war steamer replied that his orders were peremptory, and he had no discretion in the matter—that licenses to whale in the Ochotsk would be granted to foreign applicants for $250 at Petropavlovski. Under the circumstances Captain Spencer had no alternative other than to recall his boats, which had lowered for a chase, and leave the ground.

Case: *Cape Horn Pigeon.*
Deposition of William R. Wing.
Exhibit 9.
(Signed) W. F. C.

EXHIBIT W.

Chart of the Sea of Okhotsk, showing the course of the *Cape Horn Pigeon* as plotted according to the entries in the log book.

EXHIBIT X.

Statement of Capt. Thomas Scullun, captain of the whaling bark *Cape Horn Pigeon*, of the port of New Bedford, in the State of Massachusetts, of the United States of America, and of the officers thereof, with reference to the illegal seizure of the above-named vessel by the Russian authorities.

We, Thomas Scullun, master; William H. Young, chief mate; Antonio Margurita, second mate, George H. Peckham, third mate; William H. Griffith, fourth mate; John H. Smith, cooper and carpenter, and Samuel Mackintyre, Peter Layton, and Thomas Oliver, boat steerers or harpooners, all of the American whaling bark *Cape Horn Pigeon*, of the port of New Bedford, Mass., do solemnly declare upon our honor that all the statements here [illegible] are true and without exaggeration or [illegible]

[illegible] that we sailed from the port of San Francisco on December 7, 1891; [illegible] on a whaling voyage, and that we cruised in the Yellow Sea and Japan Sea until [illegible] of July, when we called at the Russian port of Vladivostock, in eastern [illegible] our way to the Okotchk Sea, for the purpose of laying in a stock of fresh provisions and to give liberty to our crew.

Up to this time we had caught no whales, and while in port permission was asked of the Russian authorities by Captain Scullun to enter the bays along the Siberian coast to hunt for whales, but this permission was refused.

We sailed from the port of Vladivostock on the 6th of July for the Okotchk Sea, and on the 12th of August caught our first whale about 120 miles from Sagalien Island and about 40 miles off Yetarup Island. Our second whale was taken on the 31st of August, the position of the ship then being about 150 miles from Sagalien Island and about 80 miles off Yetarup Island.

We further declare that about 4 a. m. on the morning of the 10th of the present month, while cruising for whales in latitude 46° 30′ and longitude 146° 35′, and being then about 126 miles from Sagalien Island and Yetarup Island being about 84 miles distant, we were boarded by a sealing schooner called the *Marie*, which had been confiscated by the Russian authorities, and was then manned by Russian sailors and commanded by a Russian naval officer.

The said Russian naval officer came on board of our vessel and demanded the ship's papers from the captain, and informed him that he had seized the ship for whaling in the Okotchk Sea, and that this was contrary to the Russian law, as the Okotchk was a closed one. The captain protested against the seizure of the ship, and told the officer that he had never been informed that the Okotchk Sea was closed, nor had he ever been warned not to enter it. No attention was paid to the protest, however, and the said officer, with another officer and twelve armed Russian sailors, there and then took possession of the ship.

We furthermore declare that the said officer never asked to see the log book, and that while in conversation with the captain he expressed doubts as to his legal right to seize the ship, but said that he was acting under instructions from his admiral, and that if any mistake was made his Government would rectify it.

We further declare that the said officer then ordered all hands, excepting the captain and the steward and a boy, to proceed on board of the schooner *Marie* and to take her to Vladivostock.

We proceeded on board of the said schooner and brought her to Vladivostock and arrived on the 15th instant. On the 18th instant the *Cape Horn Pigeon* arrived in the harbor flying the Russian naval flag. At about 5 p. m. a steam launch came alongside of the *Marie* and ordered us to take our effects and get into her, and we were then landed on the beach without food or shelter, and had it not been for a Chinaman, who took us in and allowed us to sleep in a storehouse, we should have had to sleep in the streets.

We were told when we landed from the schooner that quarters and food would be supplied to us in the gaol, but although we have applied there several times we can learn nothing.

We furthermore declare that we believe the seizure of the ship to be unjust and illegal, as the vessel has not visited the bays, nor have we fished inside the limit of 3 marine leagues, as the log book can testify.

VLADIVOSTOCK, *September 21, 1892.*

THOMAS SCULLUN, *Master.*
WILLIAM H. YOUNG, *First Mate.*
ANTONIO MARGARIDA, *Second Mate.*
GEORGE H. PECKHAM, *Third Mate.*
WILLIAM H. GRIFFITH, *Fourth Mate.*
JOHN E. (his x mark) SMITH, *Carpenter and Cooper.*
SAMUEL MCINTYRE, *Boat Steerer.*
PETER (his x mark) LAYTON, *Boat Steerer.*
THOS. (his x mark) OLIVER, *Boat Steerer.*
JOE M. SAUZA, *Boat Steerer.*

WITNESSES:

E. A. HERBER, *P. A. Surgeon, U. S. Navy.*
W. M. CROSE, *Ensign, U. S. Navy.*

EXHIBIT Y.

Declaration.

We, the undersigned, master, officers, and crew of the bark *Cape Horn Pigeon*, of New Bedford, Massachusetts, U. S. A., hereby declare and make statement as follows:

The said bark sailed from the port of San Francisco on the 7th of December, 91, on a cruise for whales, the ship being solely and exclusively fitted for that purpose, and all of us having agreed to go on shares in the oil and bone caught during the cruise, which was to terminate at said port this autumn.

Sailing across the Pacific Ocean, the ship cruised in the Yellow and Japan Sea, and called at the port of Vladivostock in the beginning of July for provisions and water. Leaving that port on the 6th July we proceeded to the Okotchk Sea, passing the Laparouse Straits on the 13th July, nearest land on Sagalien Island, Cape Crillon bearing N. by E. and Cape Siretoko bearing due N., the former being 20 miles and the latter cape 30 miles distant. Since that date until the date of our seizure we cruised between latitudes 47° 34′ and 44° 47′, and distant from land 30 to 100 miles, catching two whales.

On the 10th day of September at 4 a. m., the ship lying-to under small sails, and being then in latitude 46° 30′ and longitude 146° 35′, the nearest part of Sagalien Island being 126 miles and Yetarup Island being about 84 miles distant, a boat from a schooner came alongside, and a Russian naval officer came on board and demanded the ship's papers and the captain's presence on board of the schooner. The captain accompanied the officer accordingly, and soon returned on board of our ship with two Russian naval officers and armed Russian sailors, who then took possession of the ship and sent all of us on board of the schooner with the exception of the captain, steward, and a boy, ordering us to proceed to Vladivostock, which we did, arriving there on September 15th.

We were left on board of the schooner lying in the harbor until the arrival of the *Cape Horn Pigeon*, on the 18th instant, with our captain on board. On the evening of that date we were taken on shore and landed on the beach without food and shelter.

The above statement we declare to be true, and are ready at any time to confirm the same by oath before any authority or court.

We further declare the seizure of our ship to be illegal, believing it to be an act not sanctioned by international law, and, in our opinion, unwarranted and unjustified, and we therefore believe that we are entitled to compensation and indemnity, which we hereby declare that we shall demand from the Government concerned.

1st. For the loss of the ship and cargo.
2nd. For the loss of the season.
3rd. Compensation for bringing the Government schooner to Vladivostock; and
4th. For wages from the date of seizure until our arrival at San Francisco with a free passage to that port.

Done at Vladivostock this 23rd day of September, 1892, which witness our signatures affixed below.

THOMAS SCULLUN, *Master.*
WILLIAM H. YOUNG, *Chief Mate.*
ANTONIO MARGARIDA, *Second Mate.*
GEORGE H. PECKHAM, *Third Mate,*
WILLIAM H. GRIFFITH, *Fourth Mate.*
JOHN E. (his x mark) SMITH, *Carpenter.*
PETER JOHNSON, *Sailmaker.*
SAMUEL MCINTYRE, *Boat steerer.*
THOMAS OLIVER, *Boat steerer.*
PETER (his x mark) LAYTON, *Boat steerer.*
JOSE (his x mark) SUZA, *Boat steerer.*
JAMES MCGREGOR, *Seaman.*
WILLIAM MACDONALD, *Seaman.*
FELIX DE CASTRO, *Seaman.*
JOAQUIN PANGENAN, *Seaman.*
JOSE GUINATA, *Seaman.*
JOHN PETERS, *Seaman.*
MARANA MANALOUSA, *Seaman.*
JOSE (his x mark) MENZALA, *Seaman.*
JOHN (his x mark) SABLAN, *Seaman.*
BEN (his x mark) CHICKENO, *Seaman.*
BEN (his x mark) KINTENELIOR, *Seaman.*
BONAVIN (his x mark) ASCENCION, *Seaman.*
PEDRO (his x mark) DE BONHA, *Seaman.*
PEDRO (his x mark) LA CROIDE, *Seaman.*
FELICE (his x mark) DO CASTRO, *Seaman.*
JOSEPH (his x mark) CARTER, *Seaman.*
NICOLAS (his x mark) PORTER, *Cook.*
MANUEL (his x mark) FELIX, *Seaman.*
MANUEL (his x mark) JANUARY, *Seaman.*

EXHIBIT Z.

VLADIVOSTOCK, *September 27, 1892.*

Sir: Supplementary to my letter to you of the 20th instant, having heard that the [illegible]re of my ship was made on suspicion of my having aided vessels engaged in [illegible]g in the Okotchk Sea, I beg to state again that the Russian officer (Lieutenant [illegible]) who seized my ship stated distinctly at the time of seizure that I was taken [illegible] the Okotchk Sea, and my officers and crew declare that he specially [illegible] and declared the same to them when they were transferred to the schooner [illegible] my ship.

Furthermore, I declare that on the passage down to this port he again explicitly [illegible] that he made the seizure on account of whaling in the Okotchk, and said that [illegible] not had two whales on board he would have released me and simply warned [illegible] the sea.

Respectfully, yours,

THOMAS SCULLUN,
Master, "Cape Horn Pigeon."

Commander CHARLES V. GRIDLEY, *U. S. N.,*
Commanding U. S. S. "Marion," Vladivostock.

VLADIVOSTOCK, *September 20, 1892.*

I have the honor to address you with reference to the illegal seizure of the Amer[illegible] bark *Cape Horn Pigeon*, of New Bedford, by the Russian authorities.

[illegible]ailed from San Francisco in command of the *Cape Horn Pigeon* on the 7th of [illegible]ember last on a whaling voyage, and cruised in the Yellow Sea and Japan Sea [illegible] the beginning of July, when I visited this port on my way north to the Okotchk [illegible] and applied to the authorities here for permission to enter the bays along the [illegible] to hunt for whales; but this was refused.

[illegible] I on my way to the Okotchk Sea, and up to the time of my seizure [illegible] two whales. On the 10th of this month, while cruising for whales in [illegible] 30′ and longitude 146° 35′, and being then 126 miles from Sagalien [illegible] Veterup Island being 84 miles distant, we were boarded by a boat from [illegible] schooner called the *Marie*, which had been confiscated by the Russian [illegible], and was then manned by Russian sailors and commanded by a Russian [illegible]

[illegible] officer came on board and demanded my papers, and then informed me [illegible]ized the ship for whaling in the Okotchk Sea, and that the same was [illegible] Russian law, as this was a closed sea.

[illegible] the seizure of my ship, and told the officer that I had never [illegible] Okotchk being a closed sea. No attention was paid to my protest, how[illegible] officer and his armed crew then took possession of my ship, and [illegible] and crew to go on board of the schooner and to take her to [illegible], which they did, arriving here on the 15th instant.

[illegible] evening they were ordered on shore, and left without food or shelter. [illegible] men's effects are still on board, but they are not allowed to go and get [illegible]

[illegible] been on board of the Russian man-o'-war and to the various officials on [illegible] no satisfaction or information from any of them.

[illegible] is in the possession of the authorities, or I should submit it to you [illegible]

I submit [illegible] the seizure of my vessel was illegal and unjustified and without prec[illegible]. I have visited the Okotchk Sea five consecutive seasons, but have never [illegible] any objection before, nor have I ever been warned not to go, although I [illegible] port four different times.

[illegible] always been careful not to infringe the Russian law in any respect, and [illegible]ly abstained from entering the bays or whaling within the 5-mile limit.

[illegible] are no United States consular authorities at this port, I must request your [illegible] advice in this matter, and would ask you to address the proper author[illegible] having some decision arrived at as speedily as possible.

[illegible] have this day cabled a report of my seizure to the United States minister at St. [illegible] a copy of which I inclose.

[illegible] your obedient servant,

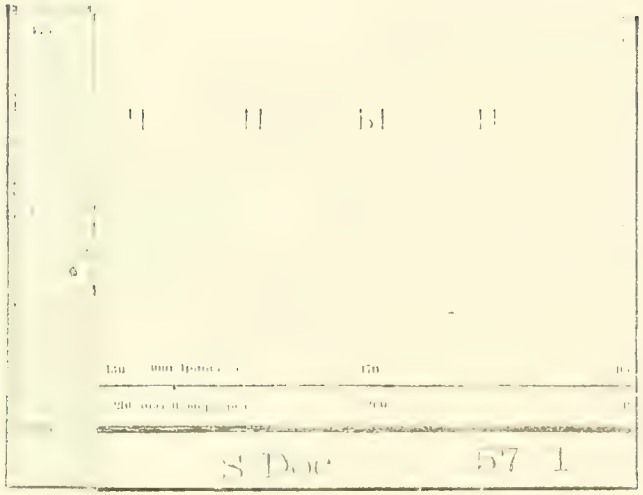
THOMAS SCULLUN, *Master.*

[illegible] V. GRIDLEY, *U. S. N.,*
Commanding U. S. S. "Marion," Vladivostock.

[illegible] above report is true.

WILLIAM H. YOUNG.

1.3.2.41



since they went away without difficulty, and the distance which separated the from the vessel and boats at that moment in sight excluded all such idea.

Lieutenant Etoline proceeded in regard to them conformably to the good relations between the two countries, since he offered his assistance in repairing their injuries and provided them with supplies. Finally the commander of the *Aleoute* did not give it his duty to inform the Russian authorities of this incident, since it seemed him insignificant, and since for his part his conscience was clear that he had not of his rights nor failed in his duties.

I flatters himself with the hope that the Federal Government, being the details, will consider the incident closed.

Minister seizes the occasion to renew to General Clay the assurance of his considerations.

WESTMANN.

July 31, 1868.

EXHIBIT C C.

[Translation.]

Report of Vice-Admiral Wevel von Kruger, director of the hydrographic department for the year 1875, page 91, lines 9 to 21 inclusive:

Short hydrographic aperçu of the cruise of the schooner *Vostok* in the Sea of Okhotsk in 1875. The screw propeller schooner *Vostok* left June 4, 1875, from Vladivostok for the purpose of cruising along the shores of the Sea of Okhotsk to notify foreign vessels of our regulations concerning that fishery. The cruise of this schooner was to guarantee the fisheries of our whaling ships from the vast gulfs of the Sea of Okhotsk with the engagement not to fish within 3 miles distance from our shores. At the same time with the schooner *Vostok* the clipper *Haidamax* left Vladivostok on the same mission along the eastern coast of Kamtchatka and the Bering Sea.

To all to whom these presents shall come greeting:

I certify that the document hereto annexed is a true copy of a translation in French prepared by the sworn translator at the district court of St. Petersburg.

In testimony whereof I, Herbert H. D. Peirce, first secretary of the embassy of the United States, have hereunto subscribed my name and caused the seal of the Embassy of the United States to be affixed.

St. Petersburg this 23d day of November, A. D. 1900.

[EMBASSY SEAL.]

HERBERT H. D. PEIRCE.

EXHIBIT D D.

[Senate Document No. 59, Fifty-fifth Congress, second session.]

BERING SEA AWARDS.

Message from the President of the United States transmitting a report from the Secretary of State in regard to the award of the commissioners appointed pursuant to the stipulations of the convention of February 8, 1896, between the United States and Great Britain, providing for the settlement of the claims presented by the latter against the former in virtue of the convention of February 29, 1892.

JANUARY 14, 1898.—Read, referred to the Committee on Appropriations, and ordered to be printed.

To the Congress of the United States:

I transmit herewith a report from the Secretary of State in regard to the award of the commissioners appointed pursuant to the stipulations of the convention of February 8, 1896, between the United States and Great Britain, providing for the settlement of the claims presented by the latter against the former in virtue of the convention of February 29, 1892.

The report of the Secretary of State presents a clear epitome of the award, and renders unnecessary any extended observations on my part, further than to say that I cordially coincide with his recommendation and that our treaty obligations demand prompt and favorable action by Congress, which I urgently hope may be taken, to the end that these long-pending questions may be finally and satisfactorily terminated.

The total amount necessary to satisfy the award of the commissioners is $473,151.26, which I recommend to be appropriated.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
Washington, January 14, 1898.

The PRESIDENT: A convention between the United States and Great Britain was concluded in this city on February 8, 1896, providing for the settlement of claims presented by Great Britain against the United States in virtue of the convention of February 29, 1892. I transmit herewith, for greater convenience, a copy of the convention of February 8, 1896, Article I of which reads as follows:

"The high contracting parties agree that all claims on account of injuries sustained by persons in whose behalf Great Britain is entitled to claim compensation from the United States, and arising by virtue of the treaty aforesaid, the award and the findings of the said tribunal of arbitration, as also the additional claims specified in the fifth paragraph of the preamble hereto, shall be referred to two commissioners, one of whom shall be appointed by the President of the United States and the other by Her Britannic Majesty, and each of whom shall be learned in the law. Appended to this convention is a list of the claims intended to be referred."

In virtue of this provision the President appointed the Hon. William L. Putnam, of Maine, the commissioner of the United States.

After determining where the meetings of the commission shall take place (see Article II), the convention (Article III) provides as follows:

"The said commissioners shall determine the liability of the United States, if any, in respect of each claim, and assess the amount of compensation, if any, to be paid on account thereof—so far as they shall be able to agree thereon—and their decision shall be accepted by the two Governments as final.

"They shall be authorized to hear and examine, on oath or affirmation, which each of said commissioners is hereby empowered to administer or receive, every question of fact not found by the tribunal of arbitration, and to receive all suitable authentic testimony concerning the same; and the Government of the United States shall have the right to raise the question of its liability before the commissioners in any case where it shall be proved that the vessel was wholly or in part the actual property of a citizen of the United States.

"The said commission, when sitting at San Francisco or Victoria, shall have and exercise all such powers for the procurement or enforcement of testimony as may hereafter be provided by appropriate legislation."

It also provides in Article V that in the cases, if any, in which the commissioners shall fail to agree, they shall transmit to each Government a joint report stating in detail the points on which they differ and the grounds on which their opinions have been formed; and any such difference shall be referred for final adjustment to an umpire, "to be appointed by the two Governments jointly, or, in case of disagreement, to be nominated by the President of the Swiss Confederation."

With this brief explanatory statement, I now transmit a copy of the report or award of the commissioners, Mr. Putnam, and Mr. George E. King, the commissioner appointed by Her Britannic Majesty. It is dated December 17, 1897.

I have made an extract from the award, which will show at a glance the name of [illegible] vessel, the principal, interest, and total sum awarded, and the same thing with [illegible]erence to the personal claims. It reads as follows:

	Principal.	Interest.	Total.
[illegible]	$13,341.72	$9,020.71	$22,362.43
[illegible]	13,521.10	9,142.53	22,663.63
[illegible]	9,376.00	6,339.71	15,715.71
[illegible]	3,202.00	2,165.08	5,367.08
[illegible]	12,537.50	7,725.22	20,262.72
[illegible]	21,692.50	13,366.19	35,058.69
[illegible]	10,124.00	6,238.07	16,362.07
[illegible]	26,213.50	16,125.67	42,339.17
[illegible]	31,184.00	19,399.38	50,883.38
[illegible]	20,902.69	12,880.01	33,782.70
[illegible]	1,750.00	1,078.29	2,828.29
[illegible]	11,493.00	5,702.44	17,195.44
[illegible]	13,796.00	6,845.12	20,641.12
[illegible]	15,450.00	7,665.77	23,115.77
[illegible]	15,173.00	7,528.32	22,701.32
[illegible]	11,739.00	5,832.48	17,571.48
[illegible]	4,950.00	2,456.03	7,406.03
[illegible]	3,050.00	1,513.31	4,563.31
[illegible]	8,460.00	4,197.57	12,657.57
[illegible]	800.00	370.67	1,170.67
[illegible]	3,283.05	1,061.52	4,344.57
[illegible]	9,599.85	2,421.19	12,021.04
[illegible]	2,250.00	715.05	2,965.05
	264,188.91	149,790.36	413,979.27
[illegible]			
[illegible]	3,000.00	2,028.50	5,028.50
[illegible]	2,500.00	1,690.42	4,190.42
[illegible]	3,000.00	2,028.50	5,028.50
[illegible]	2,500.00	1,690.42	4,190.42
[illegible]	3,000.00	2,028.50	5,028.50
[illegible]	2,500.00	1,690.42	4,190.42
[illegible]	2,000.00	1,232.33	3,232.33
[illegible]	1,500.00	924.25	2,424.25
[illegible]	2,000.00	1,232.33	3,232.33
[illegible]	1,500.00	924.25	2,424.25
[illegible]	2,000.00	1,232.33	3,232.33
[illegible]	1,500.00	924.25	2,424.25
Pettit	2,000.00	1,232.33	3,232.33
A. Lundberg	1,000.00	616.17	1,616.17
[illegible]	294,188.91	169,265.36	463,454.27

It will be perceived that the commissioners say in their report, under the head of [illegible]sonal claims:

"[illegible] Majesty also presented for our consideration the following claims, that is to [illegible] behalf of the *Black Diamond*, warned by the collector at Unalaska, on July [illegible], and also on behalf of James Gaudin, master of the *Ada*, as to each of which [illegible] and award that we have no jurisdiction, and we dismiss the same."

[illegible]ly the commissioners recommend in regard to these two claims as [illegible]

"[illegible] the claims mentioned in the award of the commissioners as having been presented on behalf of Great Britain and dismissed as not being within our jurisdiction, namely, the claims of the *Black Diamond*, arising in the year 1886, and [illegible]aim of James Gaudin, the commissioners, in pursuance of the com[illegible] to them from the Secretary of State for the United States and Her Brit[illegible]ssador at Washington, dated at Washington, January 26, 1897, [illegible] in the protocol of February 2, 1897, beg to report as follows:

"[illegible] damages were sustained by the owners, master, officers, and crew [illegible] in connection with the notice given by the collector of customs [illegible] July 1, 1886, to the amount of $5,000, with interest at the rate of 6 [illegible] from September 10, A. D. 1887.

"[illegible] personal claims of James Gaudin, master of the *Ada* in 1887, we [illegible] amount of damages sustained by him was $1,000, with interest at the [illegible] per annum from September 10, 1887."

[illegible] copy of the communication of the then Secretary of State and the British ambas[illegible], referred to by the commissioners, is appended hereto.

I am of opinion that the amount of damages assessed by the commissioners respecting the last-named claims should be included in the sum appropriated by Congress to satisfy the award under the convention of February 8, 1896. This Government would then be enabled to reach an agreement with that of Great Britain for the final discharge of the claims in question.

The amount to satisfy the claims of the *Black Diamond* is as follows: $8,080.83 being the principal, $5,000 and interest, $3,080.83, at 6 per cent per annum from September 10, 1887, to December 17, 1897. The amount to liquidate the personal claim of James Gaudin, master of the *Ada*, is as follows: $1,616.16 being principal, $1,000, and interest, $616.16, at the rate of 6 per cent per annum from September 10, 1887, to December 17, 1897.

Including these claims, the total sum necessary to be appropriated to satisfy the award would be $473,151.26.

Should you coincide with my views, I respectfully recommend that this report and a copy of the award of the commissioners be promptly laid before Congress, with an urgent request for early and favorable consideration.

Upon this subject Article VIII of the convention of 1896 says:

"The amount awarded to Great Britain under this convention on account of any claimant shall be paid by the Government of the United States to the Government of Her Britannic Majesty within six months after the amount thereof shall have been finally ascertained."

Respectfully submitted.

JOHN SHERMAN.

Convention between the United States and Great Britain for the settlement of claims presented by Great Britain against the United States in virtue of the convention of February 29, 1892.

[Concluded February 8, 1896; ratification advised by the Senate, with amendments, April 15, 1896; ratified by the President, April 23, 1896; ratified by Her Britannic Majesty, May 14, 1896; ratifications exchanged, June 3, 1896; proclaimed June 11, 1896.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the Governments of the United States of America and Great Britain providing for the settlement of claims presented by Great Britain against the United States in virtue of the convention of February 29, 1892, between the same high contracting parties was concluded and signed by their respective plenipotentiaries at the city of Washington on the 8th day of February, 1896, which convention, being in the English language, and as amended by the Senate of the United States, is word for word as follows:

Whereas by a treaty between the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, signed at Washington on February [illegible], the questions which had arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Bering Sea, and concerning also the preservation of the fur seal in, or habitually resorting to, the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur seal in, or habitually resorting to, the said waters, were submitted to a tribunal of arbitration as therein constituted;

And whereas the high contracting parties, having found themselves unable to agree upon a reference which should include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, did, by Article VIII of the said treaty, agree that either party might submit to the arbitrators any questions of fact involved in said claims, and ask for a finding thereon, the question of the liability of either Government on the facts found to be the subject of further negotiation;

And whereas the agent of Great Britain did, in accordance with the provisions of said Article VIII, submit to the tribunal of arbitration certain findings of fact which were agreed to as proved by the agent of the United States, and the arbitrators did unanimously find the facts so set forth to be true, as appears by the award of the tribunal rendered on the 15th day of August, 1893;

And whereas in view of the said findings of fact and of the decision of the tribunal of arbitration concerning the jurisdictional rights of the United States in Bering Sea, and the right of protection of property of the United States in the fur seals frequenting the islands of the United States in Bering Sea, the Government of the United States is desirous that in so far as its liability is not already fixed and determined by

the findings of fact and the decision of said tribunal of arbitration the question of such liability should be definitely and fully settled and determined, and compensation for any injuries for which, in the contemplation of the treaty aforesaid, the award and findings of the tribunal of arbitration compensation may be due to Great Britain from the United States;

And whereas it is claimed by Great Britain, though not admitted by the United States, that prior to the said award certain other claims against the United States have arisen in favor of Great Britain on account of seizures of or interference with the following-named British sealing vessels, to wit: The *Wanderer*, the *Winifred*, the [illegible] and the *Oscar and Hattie*, and it is for the mutual interest and convenience of the high contracting parties that the liability of the United States, if any, and the amount of compensation to be paid, if any, in respect of such claims and each of them should also be determined under the provisions of this convention—all claims by Great Britain under Article V of the modus vivendi of April 18, 1892, for [illegible] from fishing of British sealers during the pendency of said arbitration having been definitely waived before the tribunal of arbitration:

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, to the end of concluding a convention for that purpose, have appointed as their respective plenipotentiaries:

The President of the United States, the Honorable Richard Olney, Secretary of State, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable Sir Julian Pauncefote, G. C. B., G. C. M. G., Her Majesty's ambassador extraordinary and plenipotentiary to the United States;

Who, after having communicated to each other their respective full powers, which were found in due and proper form, have agreed to and concluded the following articles:

Article I.

The high contracting parties agree that all claims on account of injuries sustained by persons in whose behalf Great Britain is entitled to claim compensation from the United States and arising by virtue of the treaty aforesaid, the award and the findings of the said tribunal of arbitration, as also the additional claims specified in the [illegible] paragraph of the preamble hereto, shall be referred to two commissioners, one of whom shall be appointed by the President of the United States and the other by Her Britannic Majesty, and each of whom shall be learned in the law. Appended to this convention is a list of the claims intended to be referred.

Article II.

The two commissioners shall meet at Victoria, in the Province of British Columbia, Canada, as soon as practicable after the exchange of the ratifications of this convention, and, after taking an oath that they will fairly and impartially investigate the claims referred to them and render a just decision thereon, they shall proceed jointly to the discharge of their duties.

The commission shall also sit at San Francisco, California, as well as Victoria, provided either commissioner shall so request if he shall be of opinion that the interests of justice shall so require, for reasons to be recorded on the minutes.

Article III.

The said commissioners shall determine the liability of the United States, if any, in respect of each claim and assess the amount of compensation, if any, to be paid on account thereof—so far as they shall be able to agree thereon—and their decision shall be accepted by the two Governments as final.

They shall be authorized to hear and examine, on oath or affirmation, which each of said commissioners is hereby empowered to administer or receive, every question of fact referred by the tribunal of arbitration, and to receive all suitable authentic testimony concerning the same; and the Government of the United States shall have the right to raise the questions of its liability before the commissioners in any case in which it shall be proved that the vessel was wholly or in part the actual property of citizens of the United States.

The commission, when sitting at San Francisco or Victoria, shall have and exercise all such powers for the procurement or enforcement of testimony as may be conferred by appropriate legislation.

Article IV.

The commissioners may appoint a secretary and a clerk, or clerks, to assist them in the transaction of the business of the commission.

Article V.

In the cases, if any, in which the commissioners shall fail to agree, they shall transmit to each Government a joint report stating in detail the points on which they differ and the grounds on which their opinions have been formed; and any such difference shall be referred for final adjustment to an umpire to be appointed by the two Governments jointly, or, in case of disagreement, to be nominated by the President of the Swiss Confederation at the request of the two Governments.

Article VI.

In case of the death, or incapacity to serve, from sickness or any other cause, of either of the two commissioners, or of the umpire, if any, his place shall be filled in the manner herein provided for the original appointment.

Article VII.

Each Government shall provide for the remuneration of the commissioner appointed by it.

The remuneration of the umpire, if one should be appointed, and all contingent and incidental expenses of the commission, or of the umpire, shall be defrayed by the two Governments in equal moieties.

Article VIII.

The amount awarded to Great Britain under this convention on account of any claimant shall be paid by the Government of the United States to the Government of Her Britannic Majesty within six months after the amount thereof shall have been finally ascertained.

Article IX.

The present convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty, and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof we, the respective plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done in duplicate at Washington, the 8th day of February, 1896.

RICHARD OLNEY. [SEAL.]
JULIAN PAUNCEFOTE. [SEAL.]

APPENDIX OF CLAIMS.

Claims [illegible] by the tribunal of arbitration at Paris.

Name of vessel.	Date of seizure.	Approximate distance from land when seized.	United States vessel making seizure.
[illegible]	Aug. 1, 1886	75 miles	Corwin.
[illegible]	do	70 miles	Do.
Sayward	Aug. 2, 1886	115 miles	Do.
Favorite	do	Warned by Corwin in about same position as Onward.	
Anna Beck	July 2, 1887	66 miles	Rush.
W. P. Sayward	July 9, 1887	59 miles	Do.
Dolphin	July 12, 1887	40 miles	Do.
Grace	July 17, 1887	96 miles	Do.
Alfred Adams	Aug. 10, 1887	62 miles	Do.
Ada	Aug. 25, 1887	15 miles	Bear.
Triumph	Aug. 4, 1887	Warned by Rush not to enter Bering Sea	
Juanita	July 31, 1889	66 miles	Rush.
Pathfinder	July 29, 1889	50 miles	Do.
Triumph	July 11, 1889	Ordered out of Bering Sea by Rush. Query as to position when warned.	
Black Diamond	do	35 miles	Do.
Lily	Aug. 6, 1889	66 miles	Do.
Ariel	July 30, 1889	Ordered out of Bering Sea by Rush	
[illegible]	Aug. 1, 1889	do	Do.
Maude	July 1, 1889	65 miles	Do.
Pathfinder	Mar. 27, 1889	Seized in Neah Bay	Corwin.

Personal claims	1886
Personal claims	1887
[illegible] in "Sayward" case.	
Additional claims.	
Wanderer	1887-89
Winifred	1891
Henrietta	1892
[illegible]	[illegible]

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of London on the 3d day of June, 1896;

Now, therefore, be it known that I, Grover Cleveland, President of the United States of America, have caused the said convention to be made public, as amended, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the [illegible] to be affixed.

Done at the city of Washington this 11th day of June, in the year of our Lord 1896, and of the independence of the United States the one hundred and twentieth.

GROVER CLEVELAND.

By the President:
RICHARD OLNEY, *Secretary of State.*

Mr. Olney and Sir Julian Pauncefote to Bering Sea Claims Commission.

WASHINGTON, *January 26, 1897.*

GENTLEMEN: In view of the fact that the "added" claims of the *Black Diamond* and of Capt. James Gaudin, master of the *Ada*, now pending before you, subject to a motion to dismiss on behalf of the counsel for the United States, were clearly intended to be submitted to and decided by the commissioners; in view of the further fact that if the motion of the counsel for the United States prevails the claims in question must be settled by diplomatic negotiations or by another commission or other tribunal, so that it is for the interests of both Governments that the merits of said claims should now be investigated, and as far as practicable determined, the undersigned, on behalf of their respective Governments, respectfully request that the commission, leaving the pending motion undecided, will see fit to investigate and pass upon these claims as if the same were legitimately before them, with the exception, of course, that their conclusions are not to be regarded as binding awards, but that the facts involved are to be reported to the two Governments for their information and for such action as they may deem appropriate.

Fully appreciating that the request herein preferred can not be made as a matter of right, but is to be regarded solely as a suggestion for such voluntary action by the commissioners as in view of the circumstances the interests of all parties seem to require.

We have the honor to remain, gentlemen, your most obedient servants,

RICHARD OLNEY,
Secretary of State of the United States.
JULIAN PAUNCEFOTE,
Her Britannic Majesty's Ambassador.

Bering Sea Claims Award.

Whereas by a convention between the United States of America and Great Britain, signed at Washington on February 8, 1896, it was, among other matters, agreed and concluded that "all claims on account of injuries sustained by persons in whose behalf Great Britain is entitled to claim compensation from the United States, and arising by virtue of" a certain treaty between the United States and Great Britain, signed at Washington on February 29, 1892, the award and the findings of the tribunal of arbitration constituted thereunder, as also certain additional claims specified in the preamble of the convention first above mentioned, should be referred to two commissioners, one of whom should be appointed by the President of the United States and the other by Her Britannic Majesty, and each of whom should be learned in the law, and it was further agreed and concluded in the convention first herein recited that said commissioners should determine the liability of the United States, if any, in respect of each claim, and assess the amount of compensation, if any, to be paid on account thereof;

Whereas the President of the United States of America appointed the Hon. [illegible] Putnam, a judge of the circuit court of the United States for the first circuit, one of said commissioners, and Her Britannic Majesty appointed the Hon. George Edwin King, a justice of the supreme court of Canada, the other of said commissioners; and we, the said commissioners, having met at Victoria, in the Province of British Columbia, Canada, on the 23d day of November, A. D. 1896, and our respective powers having been found to be duly authenticated, and each of us having duly taken the oath prescribed by the convention, proceeded jointly to the discharge of our duties thereunder; and having heard and examined on oath or affirmation every question of fact not found by the tribunal of arbitration under the treaty between the United States of America and Her Britannic Majesty, signed at Washington on the 29th of February, 1892, and having received all suitable authentic testimony concerning the same, and being attended by counsel on behalf of the United States and by counsel on behalf of Great Britain, who were duly heard before us, and having impartially and carefully examined the question submitted to us.

Now, therefore, we, the said commissioners, do hereby determine, adjudge, and award as follows:

The rate of interest awarded by us is 6 per cent per annum, being the statutory rate at Victoria, British Columbia, during the period covered, but being less than the current rate thereat.

As to the claim in respect of the vessel *Carolina*, it is determined that the United States are liable to Great Britain, in respect thereof, and we assess the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows: $13,341.72, with interest from September 10, 1886, until this day, amounting to $9,020.71, and making a total of principal and interest of $22,362.43.

As to the claim in respect of the vessel *Thornton*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel as follows, that is to say: $13,521.10, with interest from September 10, 1886, until this day, amounting to $9,142.53, and making a total of principal and interest of $22,663.63.

As to the claim in respect of the vessel *Onward*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel (exclusive of the net interest of Alexander McLean, who, at the time of the convention, was a citizen of the United States and domiciled therein, and has so remained), as follows, that is to say: $9,376, with interest from September 10, 1886, until this day, amounting to $6,339.74, and making a total of principal and interest of the sum of $15,715.74.

As to the claim in respect of the vessel *Favourite*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel (exclusive of the net interest of said Alexander McLean), as follows, that is to say: $3,202, with interest from September 10, 1886, until this day, amounting to $2,165.08, and making a total of principal and interest of the sum of $5,367.08.

As to the claim in repect of the vessel *W. P. Sayward*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $12,537.50, with interest from September 10, 1887, until this day, amounting to $7,725.22, and making a total, principal and interest, of the sum of $20,262.72.

As to the claim in respect of the vessel *Anna Beck*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $21,692.50, with interest from September 10, 1887, until this day, amounting to $13,366.19, making a total of principal and interest of the sum of $35,058.69.

As to the claim in respect of the vessel *Alfred Adams*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, exclusive of the net interest of Alexander Frank, who, at the time of the convention, was a citizen of the United States and domiciled therein, and has so remained, as follows, that is to say: $10,124, with interest from September 10, 1887, until this day;

amounting to $6,238.07, and making a total of principal and interest of the sum of $10,362.07.

As to the claim in respect of the vessel *Grace*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $26,213.50, with interest from September 10, 1887, until this day, amounting to $16,125.67, and making a total of principal and interest of $42,339.17.

As to the claim in respect of the vessel *Dolphin*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $31,484, with interest from September 10, 1887, until this day, amounting to the sum of $19,399.38, and making a total of principal and interest of the sum of $50,883.38.

As to the claim in respect of the vessel *Ada*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $20,902.69, with interest from September 10, 1887, until this day, amounting to $12,880.01, and making a total of principal and interest of the sum of $33,782.70.

As to the claim in respect of the vessel *Triumph*, warned or seized August 4, 1887, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $1,750, with interest from September 10, 1887, until this day, amounting to $1,078.29, and making a total of principal and interest of the sum of $2,828.29.

As to the claim in respect of the vessel *Juanita*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $11,493, with interest from September 10, 1889, until this day, amounting to $5,702.44, making a total of principal and interest of the sum of $17,195.44.

As to the claim in respect of the vessel *Pathfinder*, seized or warned July 29, 1889, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $13,796, with interest from September 10, 1889, until this day, amounting to $6,845.12, and making a total of principal and interest of the sum of $20,641.12.

As to the claim in respect of the vessel *Triumph*, seized or warned July 11, 1889, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $15,450, with interest from September 10, 1889, until this day, amounting to $7,665.77, and making a total of principal and interest of the sum of $23,115.77.

As to the claim in respect of the vessel *Black Diamond*, seized or warned July 11, 1889, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $15,173, with interest from September 10, 1889, until this day, amounting to $7,528.32, and making a total of principal and interest of the sum of $22,701.32.

As to the claim in respect of the vessel *Lily*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $11,739, with interest from September 10, 1889, until this day, amounting to $5,832.48, and making a total of principal and interest of the sum of $17,571.48.

As to the claim in respect of the vessel *Ariel*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $4,950, with interest from September 10, 1889, until this day, amounting to $2,456.03, and making a total of principal and interest of the sum of $7,406.03.

1.3.21.76

As to the claim in respect of the vessed *Kate*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $3,050, with interest from September 10, 1889, until this day, amounting to $1,513.31, and making a total of principal and interest of the sum of $4,563.31.

As to the claim in respect of the vessel *Minnie*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $8,460, with interest from September 10, 1889, until this day, amounting to $4,197.57, and making a total of principal and interest of the sum of $12,657.57.

As to the claim in respect of the vessel *Pathfinder*, seized March 27, 1890, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $800, with interest from March 27, 1890, until this day, amounting to $370.67, and making a total of principal and interest of the sum of $1,170.67.

As to the claim in respect of the vessel *Wanderer*, it is adjudged and determined that there is no liability on the part of the United States of America in respect of such claim.

As to the claim in respect of the vessel *Winnifred*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners thereof, as follows, that is to say: $3,283.05, with interest from July 27, 1892, until this day, amounting to $1,061.52, and making a total of principal and interest of the sum of $4,344.57.

As to the claim in respect of the vessel *Henrietta*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners, master, officers, and crew of the vessel, as follows, that is to say: $9,599.85, with interest on $2,437 from September 2, 1892, until this day, and upon the balance from February 17, 1894, until this day, making the entire interest $2,421.19, making a total of principal and interest of the sum of $12,021.04.

As to the claim in respect of the vessel *Oscar and Hattie*, it is adjudged and determined that the United States of America are liable to Great Britain in respect thereof, and we assess and award the amount of compensation to be paid on account thereof to Great Britain, on behalf of the owners thereof, as follows, that is to say: $2,250, with interest from August 30, 1892, until this day, amounting to $715.05, and making a total of principal and interest of the sum of $2,965.05.

As to the personal claims we adjudge and determine that the United States of America are liable on account of the following persons, and assess and award the amount of compensation to be paid to Great Britain on account of each of them, as follows:

Daniel Monroe, master of the *Onward*, the principal sum of $3,000, with interest from September 10, 1886, to this day, making a total amount of $5,028.50.

John Margotich, mate of the *Onward*, the principal sum of $2,500, with interest from September 10, 1886, to this day, making a total amount of $4,190.42.

Hans Guttormsen, master of the *Thornton*, the principal sum of $3,000, with interest from September 10, 1886, to this day, making a total amount of $5,028.50.

[illegible] Sotman, mate of the *Thornton*, the principal sum of $2,500, with interest [illegible] 10, 1886, to this day, making a total amount of $4,190.42.

[illegible] master of the *Carolina*, the principal sum of $3,000, with interest [illegible] 1886, to this day, making a total amount of $5,028.50.

[illegible] the *Carolina*, the principal sum of $2,500, with interest from [illegible] making a total amount of $4,190.42.

[illegible] the *Dolphin*, the principal sum of $2,000, with interest [illegible] this day, making a total amount of $3,232.33.

[illegible] the principal sum of $1,500, with interest from September 10, 1887, to this day, making a total amount of $2,424.25.

George P. Fesey, master of the *W. P. Sayward*, the principal sum of $2,000, with interest from September 10, 1887, to this day, making a total amount of $3,232.33.

A. B. Lang, mate of the *W. P. Sayward*, the principal sum of $1,500, with interest from September 10, 1887, to this day, making a total amount of $2,424.25.

Louis Olsen, master of the *Anna Beck*, the principal sum of $2,000, with interest from September 10, 1887, making a total amount of $3,232.33.

Michael Keefe, mate of the *Anna Beck*, the principal sum of $1,500, with interest from September 10, 1887, to this day, making a total amount of $2,424.25.

W. Petit, master of the *Grace*, the principal sum of $2,000, with interest from September 10, 1887, to this day, making a total amount of $3,232.33.

C. A. Lundberg, mate of the *Ada*, the principal sum of $1,000, with interest from September 10, 1887, to this day, making a total amount of $1,616.17.

As to "costs in *Sayward* case," it is adjudged and determined that there is no liability on the part of the United States of America in respect of such claim.

Her Majesty also presented for our consideration the following claims, that is to say, on behalf of the *Black Diamond*, warned by the collector at Unalaska on July 1, 1886, and also in behalf of James Gaudin, master of the *Ada*, as to each of which we determine and award that we have no jurisdiction, and we dismiss the same.

Made in duplicate and signed by us this seventeenth day of December, A. D. 1897.

WILLIAM L. PUTNAM,
Commissioner Appointed by the President of the United States.

GEORGE E. KING,
Commissioner Appointed by Her Britannic Majesty.

Respecting the claims mentioned in the award of the commissioners as having been presented on behalf of Great Britain and dismissed as not being within our jurisdiction, namely, the claims of the *Black Diamond*, arising in the year 1886, and the personal claim of James Gaudin, the commissioners, in pursuance of the communication to them from the Secretary of State for the United States and Her Britannic Majesty's ambassador at Washington, dated at Washington, January 26, 1897, and appearing in the protocol of February 2, 1897, beg to report as follows:

We find that damages were sustained by the owners, master, officers, and crew of the *Black Diamond*, in connection with the notice given by the collector of customs at Unalaska on July 1, 1886, to the amount of $5,000, with interest at the rate of 6 per cent per annum from September 10, A. D. 1887.

And as to the personal claims of James Gaudin, master of the *Ada*, in 1887, we report that the amount of damage sustained by him was $1,000, with interest at the rate of 6 per cent per annum from September 10, 1887.

December 17, 1897.

WILLIAM L. PUTNAM,
Commissioner Appointed by the President of the United States.

GEORGE E. KING,
Commissioner Appointed by Her Britannic Majesty.

EXHIBIT E E.

[Translation.]

No. 1912.] MINISTRY OF FOREIGN AFFAIRS,
Asiatic Department, May 8, 1882.

MR. CHARGÉ D'AFFAIRES: In continuation of the exchange of communications which has taken place between us on the subject of a notification published by our consul at Yokohama relative to fishing, hunting, and commerce in the Russian waters of the Pacific, and in reply to the note which you have had the goodness to address me, dated March 15/27, I am now in a position to give you the following information:

A notification of the tenor of that annexed to your note of March 15 was in fact published by our consul at Yokohama, and our consul-general at San Francisco is also authorized to publish it.

This measure related only to prohibited industries and contraband trade; the prohibitions which it makes known extend absolutely to the territorial waters of Russia. It was necessitated by the many abuses reported during these last years which fell heavily upon the population of our coasts and islands, whose sole means of existence is hunting and fishing; the abuses are equally prejudicial to the interests of the company to which the Imperial Government has conceded the monopoly of the exploitation of the Commodore and Seal islands.

Outside of the new regulation, the essential point of which is the obligation imposed upon captains of vessels who wish to fish and hunt in the Russian waters of the

Pacific, to provide themselves at Vladivostok with permits or licenses from the Government of Eastern Siberia, the right of fishing, hunting, and trading by foreigners in our territorial waters is regulated by Articles 560, et sequitur, of Heading XIII, part 2, of the code of laws.

In informing you of the foregoing I have the honor, Mr. Chargé d'Affaires, to reiterate to you the assurance of my most distinguished consideration.

GIERS.

To Mr. W. HOFFMAN,
Chargé d'Affaires.

EXHIBIT F F.

[Translation.]

No. 2218.] MINISTRY OF FOREIGN AFFAIRS,
Asiatic Department, June 1, 1882.

MR. CHARGÉ D'AFFAIRES: In reply to the note which you had the goodness to address me on May 13/25 relative to fishing and hunting in our waters of the Pacific, and in which you have expressed a desire to have a translation of the articles of our Code which govern the subject, I have the honor to send you herewith the translation of articles 560 et sequitur of the Code T. XII, part 2.

Please to accept, Mr. Chargé d'Affaires, the assurance of my distinguished consideration.

GIERS.

To Mr. W. HOFFMAN,
Chargé d'Affaires, etc.

ART. 560.—The waters of the sea, even when they wash the coasts having a stable population, can not be subject to private ownership; they are free to the use of one and all.

ART. 561.—No exception is admitted to this general rule except under the form of special privileges accorded for the right of fishing in certain localities and during a specified time.

ART. 562.—The above rule relative to the freedom of fishing and analagous industries pertains equally with regard to all lakes forming part of private domains.

ART. 565.—No restriction shall be imposed as to the nature of apparatus employed in fishing and other analogous industries on the high sea, and it shall be permissible to each and all to employ for that purpose such instruments as they may judge the most suitable for the conditions of the locality.

ART. 571.—Ships in quarantine are forbidden to fish. The same interdiction applies in general to all individuals in localities where ships are under quarantine.

vent them from killing seals during one year—that is to say, until the end of May, 1892—either in that part of the Bering Sea situated to the east of the line of demarcation established by the treaty of 1867 between Russia and the United States or on the Pribilof Islands, with the exception that 750 seals might be killed to supply the needs of the Aleutian population of these islands. Persons and vessels guilty of infringement of this interdiction were liable to seizure.

In concluding this agreement the object of the two powers was to pave the way for future negotiations as well as to be able to procure on the spot necessary data upon the subject of the conditions under which this industry was or might be carried on. This data would serve as material for the solution of differences arising between the two countries, which would have to be submitted to arbitration, as article 4 of the agreement also provided for.

The necessity for exceptional measures on this subject was so well recognized at this time by the interested Governments that the London Cabinet, through the medium of its representative at St. Petersburg, requested the Imperial Government to interdict Russian subjects during the existence of the Anglo-American agreement from sealing beyond the limits of the line of demarcation fixed by this agreement, and even to authorize the English naval authorities to seize vessels under the Russian flag which might infringe upon this interdiction.

This proposition was not accepted by the Imperial Government, which for its part did not fail to take measures for the protection of seals in the western part of Bering Sea, and accentuated this determination by sending a Russian man-of-war to those parts.

Meantime in the proximity of the Russian coasts there began an influx of foreign vessels engaged in poaching, and it was therefore that in 1892 a cruiser of the Imperial navy, furnished with instructions ad hoc, was sent to protect the Russian interests engaged in the preservation of the seal herds. From subsequent data it appears that, according to the estimates of the Russian concessionary company as to the sealing rights in these parts, there were killed in 1891 by poaching vessels 60,000 seals, of which 10,000 were within the limits of Russian territorial waters. American and English vessels had participated equally in this poaching.

As for the measures taken by the American Government on its part during the preceding years against vessels engaged in poaching in waters which it considered under its jurisdiction, it will suffice to refer, among others, to the Annex C of the award of the Paris tribunal of arbitration of the 29th of February, 1892, and in which are mentioned a certain number of seizures made by American cruisers, certain of which took place at considerable distance from the coast, even up to 115 miles.

In presenting the above explanations, to which may be added the facts developed further on in each particular case, the defendant party looks to the high equity of the arbitrator to decide these cases, which occurred, as a matter of fact, in a locality over which the claimant demands the right of jurisdiction far beyond the waters surrounding her own coasts. Under these conditions the defendant party, who had at that time taken such measures as it deemed necessary, was justified in all good faith in believing that the present claimant could not contest the legitimacy of actions having for their object the protection of interests then considered as common.

1.3.2.48

FIRST CASE.

Seizure of the American whaling bark Cape Horn Pigeon.

The American whaler *Cape Horn Pigeon* was seized in the Okhotsk Sea, and released at Vladivostok under the following circumstances:

On the 29th of August (10th September), 1892, at 3 a. m., in 46° 33′ latitude north, and 146° 30′ longitude east, from aboard the schooner *Maria*, seized by the Russian man-of-war *Vitiaz* for illegal seal fishing, and sailing under command of Lieutenant von Cube, was sighted the whaling bark *Cape Horn Pigeon* lying to, and which, at the approach of the schooner, hoisted red and white lights. Lieutenant von Cube knew that in the western waters of the Pacific Ocean there were vessels which remain at certain distance from the seal fisheries during the season, and fill the roll of store ships, receiving the cargoes of schooners which engage in that industry and which they furnish with provisions. From the appearance and the conduct of the *Cape Horn Pigeon*, the commander of the *Maria* took her for one of these vessels. On questioning Captain Scullun, Lieutenant von Cube learned that the lights hoisted were a signal agreed upon for the American schooner *Mary H. Thomas*, which was engaged in whaling and sealing, and that Captain Scullun himself had been emphatically refused permission by the Russian authorities to engage in whale fishing in the bays of the Sea of Okhotsk. He moreover ascertained other details concerning the relations of said bark with the sealing vessels off the Tuleny Island. He found upon the bark the remains of two whales killed, and he was satisfied by the points indicated upon the navigation chart that the *Cape Horn Pigeon* had entered the gulfs of Aniva and Patience, lingering during the hunt principally in the proximity of the Russian coast.

By reason of this data the Russian commander suspected the American vessel of being engaged in an illegal industry, but finding it impossible to search the vessel and thus confirm the fact upon the spot, he decided to conduct the bark to Vladivostok; to this end he transferred to said bark his own small crew of 12 men, and took with him Captain Scullun. The bark's crew, composed of about 30 men, he ordered to repair to Vladivostok also, aboard the schooner *Maria*. (See detailed account of the incident, Exhibits Nos. I and II.) When the two vessels arrived at the port of Vladivostok a special commission was immediately appointed by an order of the commander of the Pacific squadron, which, having inspected the bark *Cape Horn Pigeon*, examined the log book and other documents relating to the case, acknowledged the measures taken by Lieutenant von Cube to be entirely regular. It was shown among other things that the *Cape Horn Pigeon* had been in communication at sea with the schooner *Mary H. Thomas* and had begun the chase of the first whale at a point 5 miles off the island of Askold; but in the absence of duly established proofs of

incriminating facts, the commission did not find sufficient motives for the confiscation of the detained vessel (Exhibit III). In consequence of this finding by the above-mentioned commission, and in virtue of a decision by superior authority, the American bark was released and restored to Captain Scullun on the 15th of September, 1892 (Exhibit IV).

From the preceding it appears that Lieutenant von Cube, having in view the governmental instructions to protect the seals from the operations of poaching vessels in that region, and having strong presumptions against a vessel apparently suspicious, had no alternative but the fulfillment of the duty imposed upon him to subject the American bark to a preventive detention pending an exhaustive examination of the matter at the nearest port. Nevertheless, admitting that in the present case a regrettable error has been made, and that in connection with a friendly power the Russian Government recognized its responsibility to grant an equitable pecuniary indemnification for the material losses caused to these alien subjects by acts of agents of the Government, as has been declared on several occasions to the American Government. (See annexes to Memorandum of the United States, Exhibit I, etc.) The principle of international right regarding the liberty of the high seas advanced by the party claimant has no claim to consideration here, and the question is limited solely as to the extent of indemnity which remains to be assigned to the injured parties for the temporary arrest of the bark *Cape Horn Pigeon.*

AMOUNT OF INDEMNITY.

Passing to the question of the amount of indemnity, the defendant party finds it necessary to observe here that in the first place the chief grounds for examination as to the justice of the claims presented by the interested parties should be that furnishing the total of loss sustained, which was presented by Captain Scullun on the 15th of September, 1892, and which was sustained by the United States legation (American Memorandum, Exhibits P, Pa, etc.). The amount of indemnity claimed was then established under the still existing impression of facts just as they occurred, and thus merits more consideration than the claim advanced about eight years after the events had transpired.

Regarding the details of the claim, the defendant party deems it proper to submit the following:

1. The chief point is manifestly the one which relates to the claim for indemnity for the loss of profit which the whaler might have realized from the catch—that is to say, from the taking of five or six whales valued at $45,000. It does not appear to be reasonable to enter at this time into the quesion of these hypothetical estimates as to the possible number of whales killed at certain periods of the year, and of the possible profits which might have been realized by the bark's crew from certain accessory products of the catch of these animals eight years previous. Moreover, only the depositions of persons interested, or the testimony of persons known to them and obtained outside of judicial course, are admitted as proofs in the matter. The defendant party could not recognize that there is any just basis for the claims on this point. Although, according to the generally accepted views of civil rights, the indemnification for injury done to the property of others relates not only to the material damage (damnum emergens), but also to the loss of profit (lucrum cessans); the latter must be understood in the sense of deprivation of a fixed revenue or of a certain profit to be derived from holdings in question (for example, such as the appropriation of another's goods, or of the damage occasioned to a vessel laden and on the point of departure). In the present case it is a question of the profit of an enterprise liable to risks, which may at any moment terminate in the loss to those who participate in said enterprise. It would be impossible to place an exact valuation several weeks previous upon that, whereon the result depends upon a fortuitous success; when starting upon a hunt exposed to dangers, one could not estimate in advance the product of said hunt; one could not affirm that another might not have the benefit of these very same whales which the *Cape Horn Pigeon* alone hoped to capture. As to the statistical deductions advanced, and which extend over a long period, they do not seem adapted to a civil proceeding relating to a precise fact as in the present case.

Nor do the arguments of the party claimant seem justified, either by the precedents cited and which relate to cases arising under other conditions. To the present case might better be likened the decision of the arbitration tribunal of 1872 in the Alabama claims, decision upon which was established the general principle that claims for indemnification for indirect damages can not be allowed. This incontestable principle of jurisprudence was practically applied in 1895 in a similar case, that is to say, in the case of a claim brought against the Russian Government by the British Government for the seizure of the Canadian schooners *Willie Mac Gowars* and *Ariel.* The Russian Government in declaring a willingness to indemnify the actual loss caused by the seizure of the American bark *Cape Horn Pigeon* rejected all responsibility for hypothetical losses occasioned by the vessel's temporary cessation from whale fishing (note of minister of foreign affairs of Russia, June 12, 1893, Exhibit I). For the above-mentioned reasons the demands of the party claimant looking to obtaining indemnification of $45,000 for loss of catch should not be granted.

Still less justified seems the demand for indemnity of $31,000 for enforced service of 31 men of crew of *Cape Horn Pigeon* aboard the schooner *Maria*, and for the bad treatment to which they were subjected on shore by the authorities of Vladivostok. In the first place, it must be stated that therein is a repetition of claim for indemnity by the same crew for service rendered in conducting the schooner *Maria* to Vladivostok ($1,000 to $1,200), a claim which was originally filed by the interested parties in 1892. But the chief objection is that all of the allegations on the subject of acts of violence and cruelty committed against these aliens rest solely in complaints made by the parties concerned without the requisite proofs. The Russian Government protests energetically against these allegations, and refers in this particular to the view taken by the representative of the United States himself. (Memorandum, Exhibit K.) Suffice it to recall that when the two vessels met at sea the American crew was twice and one-half as numerous as that of the Russian vessel; that Captain Scullun refused the lodging offered him in the town, presenting a bill for the entertainment of his men on shore, and that advice of the incident of the *Cape Horn Pigeon* was at once sent to St. Petersburg. Moreover, as appears from the list joined to the memorandum (Exhibit C) among the crew of the *Cape Horn Pigeon*, there were, besides the American

citizens, Spaniards, Portuguese, English, Danes, Dutch, Swedes, and Germans, in defense of whose rights their respective Governments should intervene. However that may be, such claims would require positive proofs, which in the present case are absolutely lacking.

Relative to the two points above mentioned it may be remarked that they represent the greater part of the indemnity claimed, and that still more than $40,000 interest for the nine years must be added. It would also be well to examine that claim with particular care, without relieving the party claimant from the onus probandi required upon all the points.

3. As to the claim for indemnification of the bark *Cape Horn Pigeon* for conducting the schooner *Maria* to Vladivostok, it is admitted as just to the amount of $1,000 conformedly with a declaration made at the time by Captain Scullun, but not to the amount to-day unduly augmented to the sum of $1,200.

4. Neither does the defendant party contest the party claimant's demand of $200 for living expenses; $210 for lodgings, and $50 for the personal expenses of the captain.

Regarding the total amount for general expenses of the shipowners, estimated at $3,040, the defendant party maintains the opinion already expressed, viz, that the claimants should be content to receive, as general surplus, a sum of $1,040, since they have not presented vouchers covering this point (telegrams, correspondence, etc.), and that at present they refer still to expenses for the future conducting of the case; that is to say, they recognize themselves that their estimates were not entirely accurate.

5. Finally, the addition of legal interest, as has already been shown in the counter-memorandum, is recognized as perfectly regular from the moment when the party claimant may exact the payment of the principal that may be due.

There remains still one observation to be made. Although the party claimant has reserved liberty of future action, still in proposing lately to close the affair by a payment of $42,000, without interest (instead of $124,278 at present claimed), he manifestly expressed a doubt as to the convincing character and the accuracy of the estimates presented by him (note of 17th January (2d February) 1899, Memorandum, Exhibit T).

CONCLUSION.

Conformably with the preceding, the defendant party acknowledges its obligation to pay by way of indemnity the sum of $2,500 ($100, $200, $210, $50, $1,040) with interest at 6 per cent from the 15th (27) September, 1892, and requests that the other claims be rejected.

ANNEXES.

Protocol of the seizure of the bark *Cape Horn Pigeon*, dated the 29th August (10th September), 1892. II—Report of the Russian officer having command of the schooner *Maria*, dated 7th September, 1892. III—Proceedings of the commission appointed by order of the commander of the Pacific squadron, dated 11th September, No. 100; and IV—Report of the commander of the cruiser *Vitiaz*, dated 15th September, 1892, No. 389.

The defendant holds the originals of these documents at the disposition of the arbitrator.

1.3.2.50

EXHIBIT I.

PROTOCOL.

On the 29th of August (September 10), 1892, at 3 a. m., in 46° 33′ latitude north and 146° 30′ longitude east, on board the schooner *Maria*, under command of Lieutenant von Cube, a bark was sighted, lying to, which, upon the approach of the schooner, hoisted a white light and under this a red light. An officer was at once sent from the schooner in a ship's boat to request the captain of the bark to report aboard the schooner with his sailing papers. When the captain, Thomas Scullun, had been questioned and his papers examined, it was found that the American bark *Cape Horn Pigeon* was engaged in whaling in the Sea of Okhotsk, and moreover, from the points indicated on the chart, it was evident that she had entered the Gulf of Aniva and of Patience, and that her general course was in a direction to the southeast of the island of Tuleny. The captain of the bark declared that he had mistaken the Russian schooner for the American schooner *Mary H. Thomas*, which was engaged in whaling and sealing, that he was waiting to communicate with her, and to this end had hoisted the signal agreed upon. It was announced to the captain of the bark that he would be conducted with said bark to Vladivostok for investigation into the question of his right to engage in such industry and to sojourn in our waters.

The crew of the American bark was transferred to the schooner, and the crew of the Russian schooner to the bark; Captain Scullun, with his servant and steward, were left aboard the bark. At 10 o'clock in the morning the two vessels weighed anchor and repaired to Vladivostok.

ENSIGN SIMANSKY.
LIEUTENANT VON CUBE.

AUGUST 29, 1892.

I, the undersigned, Thomas Scullun, master of the *Cape Horn Pigeon*, declare that I agree with the statement of the facts in this act, with the exception of the lines marked with red ink, which I reject because—

First. I called in the bays of Aniva and Terpenia two years ago to get water, and not this season, and during my five years' cruise in these waters never sighted Robben Island; and,

Second. I was told by the officer who seized the bark that I was taken for whaling in the Okhotsk Sea, and that he would not have taken me if I had not had whales on board.

THOMAS SCULLUN,
Master Bark Cape Horn Pigeon.

EXHIBIT II.

REPORT OF THE COMMANDING OFFICER OF THE SCHOONER MARIA TO THE COMMANDER OF THE PACIFIC SQUADRON.

In conformity with the orders received from your excellency I took command of the schooner *Maria* on the 20th of August. This command was transmitted to me by the chief of district of the Commander Islands, and I began at once to put the schooner in order. I had all of the quarters scrubbed with the brush, as also the upper deck. I took on a supply of drinking water and dissipated the bad odor by frequently introducing water by means of the pumps. I took on provisions for the crew sufficient to last two months, and on the 24th of August I was ready to sail.

On the 24th of August at 8 p. m. I left by the outer road from Petropavlovsk. On the 25th of August at 9 a. m. the first-class cruiser *Vitiaz* weighed anchor, tendered me a cable, and at 10 o'clock, towed by the cruiser, I directed my course toward the outlet of the bay of Avatchinsk. Leaving the bay, I sailed in a direction parallel with the shore at a speed of from 6 to 8½ knots. From time to time when the wind permitted I augmented sail. During the night of August 26 the west wind became strong, the schooner was much shaken by the rolling and tossing of the sea, and was taking in water.

On August 26 toward 3 p. m. we entered the third strait. At about 6 p. m. the fog had somewhat lifted, I could take my bearings. At 10 p. m., leaving the fifth strait, still towed by the cruiser, I directed my course westward. I followed this direction until August 27 at 1.30 p. m., when the tow cable tendered by the cruiser broke.

Having received by signal the order to proceed to my destination, I spread sail and took the southwesterly direction. During the first three hours I maintained a speed of 9 knots, but at 6 o'clock in the evening the wind became so strong that it was necessary to reef sails, after which the speed diminished to no more than 6 knots. I continued in same direction until the 28th of August at 4 p. m., when I verified my position at 47° 10′ latitute north and 147° 24′ longitude east. The wind was still from ENE. After this verification I continued the same course. The wind abated gradually, and at midnight passed from S/2 to WSW.

At 3 a. m., I sighted at two points to starboard a vessel which I was not able to clearly distinguish on account of the fog. This vessel at my approach hoisted a white light above a red light, which was evidently a signal agreed upon. Approaching to a distance of less than a cable throw, and having ascertained that it was a whaling vessel, I dropped anchor, lowered a boat, in it placed armed oarsmen, and I sent Ensign Simansky to learn its mission, and to request the captain to report to me with his documents and charts. Capt. Thomas Scullun having boarded the cruiser declared that the said bark bears the name of *Cape Horn Pigeon*, and is engaged in the industry of whaling in the sea of Okhotsk; that he had killed two whales this year, of which the oil and bone could be found on the bark. To the question put by me as to the meaning of the two lights hoisted upon the bark, he answered they were a signal agreed upon, addressed to the schooner *Mary H. Thomas*, for which he had mistaken my vessel. The schooner *Mary H. Thomas* is engaged in whaling and sealing.

Having examined the navigation chart of the bark, I was convinced that she had followed a direction principally to the south of the island of Tuleny, but that she had been off the east coast and the northwest coast of that island at a distance of 10 miles. Taking into consideration the facts that the Tuleny Island is almost in a state of siege, the relation between the bark and a schooner engaged in sealing, and her continued presence at points not far from the said island, I concluded that this bark, besides it special calling, had some sort of bearing upon the seal fisheries in the vicinity of the island. It is possible that she furnishes the schooners with provisions or that she serves them as a storeship. For this reason I resolved to conduct her to Vladivostok. I learned, moreover, from the captain that his first mate, William Jong, had landed twelve years ago from a schooner upon the island of Tuleny, where he had killed 13,000 seals during one summer, from which it appears that among the bark's crew there were experts at this industry.

Finding it impossible to inspect the hold, and thus convince myself of the bark's participation in this sort of illegal industry, I took the above-mentioned determination, to the end, moreover, that a commission, specially appointed, might examine the hold and ascertain the truth.

I learned from the captain that he had asked through the medium of the governor of the maritime province permission to engage in whaling in the bays of the sea of Okhotsk, and had offered our Government $500 dollars to obtain that privilege, but permission was emphatically refused. I knew that the clipper *Abrek* had overhauled and detained this same bark off the Chantarsky Islands, but had not seized her because she had no whales on board, but had warned her that the industry was illegitimate. Having examined her chart I found that she had lingered several times near the Russian coast, even in the gulf of Peter the Great, between the island of Askold and the shore, in the gulfs of Patience and of Aniva, off the coast of Cape Aniva, and had engaged at that place in whaling, all of which I judge from the signs upon the chart I learned from the captain that in these waters the bark *Morgan*, belonging to the same party, and the schooner *Mary H. Thomas* were engaged in whaling. The bark *Morgan* not succeeding in her effort in these parts had gone to the north coast of the peninsula of Kamchatka, and had proposed to the captain of the *Cape Horn Pigeon* to accompany her, but the latter had refused. The captain declared that to the north of the sea of Okhotsk, in the bays, were two English steamers, the *Northless* and the *Norwall*, and the American brig *Hidalgo*, engaged in whaling. Taking into consideration all the preceding and having weighed all of the circumstances for and against, I concluded to conduct the said bark to Vladivostok, in order that the matter might be carefully investigated whether or not the industry in which she engaged and her sojourn in our waters was legitimate. For this purpose I required the bark's crew to board the schooner *Maria*, with the exception of the captain, the steward, and a small boy in the captain's service. The first mate, William Jong, was named in the capacity of captain of the schooner, to whom the order was given to conduct her to Vladivostok.

I, with Ensign Simansky and all of my crew, composed of twelve men, went aboard the bark. The whole affair was accomplished at half past 9 in the morning, and at 10 o'clock in the morning of August 29 the bark and the schooner filled away toward the Strait of Laperouse. The schooner soon disappeared in the fog. Astern was another schooner, which also soon disappeared. At half past 7 in the evening a brisk wind, SSE., arose. As the bark had no balast I brailed up sails. The vessel leaned to greatly; it was evident she oscillated greatly. The first day the crew was occupied cleaning the quarters, which were in very bad condition. At night the wind changed from SSE. to NW. I continued in the same direction and sighted the summits of Cape Aniva; in the morning I augmented sail. At noon, August 30 (11th September), I stood in 46° 18.′5 latitude north and 144° 14′ longitude east. In the evening, the wind becoming brisk, I diminished sail. At 7.40 in the evening I sighted Cape Aniva, 2 miles distant. The night of August 31 I was in the Strait of Laperouse. Heavy fog; course WSW. ½ W.; now and again two lights were seen to starboard and port. Wishing to avoid danger, I sailed to SW.; having made 10 miles in that direction, I turned WNW. At 7 a. m. I sighted the light-house of Soiou.

At 8 a. m., having doubled Soiou, I took the course 10 miles to the north of Rebouksiri. At 2 p. m. I sailed toward Cape Nizmenny. Throughout this time a steady wind was blowing from NE.; speed from 5 to 8 knots. At noon September 1 (13) there were no astronomical observations taken. The wind had changed to NW. and toward evening began to freshen. I diminished sail. The wind abated about morning; I augmented sail. At noon September 2 (14) I made 42° 25′ latitude north and 136° 48′ longitude east. I had been carried southward. I had steered west as much as a NNW. wind permitted. Wind feeble; speed 3 knots.

At noon September 3 (15) I made observation 42° 13′ north latitude, 135° 48′ east longitude. After midday I sailed to NW., nearer to shore, hoping to profit of the coast wind. On the morning of September 4 (16) I sighted the coast. At 9 a. m. I tacked. At noon I ascertained 42° 59′ latitude north and 135° 61′ longitude east. From Cape Krasny to the southeast for 23 miles. Wind W/5. I went about. The bark tacks well without losing headway. We lost much time while tacking, on account of the unskillfulness of the men at the helm. On September 5 (17) I tacked opposite the shore to WSW. At 8 o'clock I had favorable wind and sailed westward. At 6 o'clock I took my bearings; island of Petrow at No. 1, 40 to 13½ miles. At 9.50 p. m. I sighted a revolving light, which soon disappeared in the fog. During the night of September 6 (18) I continued my course westward. In the morning contrary wind from WNW. I sailed northward. At noon of 6th (18) 42° 17′ latitude north and 133° 0′ 6″ longitude east. At 2.45, nearing the shore, I tacked to westward. When it grew dark the Askold light could no longer be seen, in spite of the short distance. The night of the 7th (19th) off Askold, dead calm, the lights were not visible. At 7 o'clock a northwest wind prevailed. I sailed in a northwesterly direction, advancing on the light-house of Skryplew. At 10.30 the schooner *Vancouver Belle* came to meet me. I signaled (B. L. M.) asking that steam launches be sent to tow me.

At 3 o'clock I entered Vladivostok and cast starboard anchor.

During the entire passage both crews behaved well. The schooner's crew was divided into three watches, the bark's into two; 5 men in each. Knowing the fatigue of two watches, I endeavored to give the men as much free time as possible and to avoid superfluous work. They were often obliged to pump the water from the hold, for during the day it accumulated to a depth of from 10 to 20 inches. It is very evident that somewhere about the bark there is a leak.

The health of the crew was excellent throughout the passage. No one applied to me for medical assistance.

LIEUTENANT VON CUBE.

VLADIVOSTOK, *September 7, 1892.*

EXHIBIT III.

In conformity with order No. 160 of the commander of the Pacific Squadron dated the 11th September, 1892, the commission appointed by that order, and composed of the Ship's Captain Hessen, president; Ship's Captain Zarine, Captains of Frigate de Livron and Philissow, and of the auditor chief counselor of the college Yanevitch-Yanevsky, members, with Lieutenant Petrow, executive officer, proceeded to execute the work intrusted to them, took cognizance of the circumstances of the seizure of the American whaling bark *Cape Horn Pigeon*.

From the report of Lieutenant von Cube, who seized said bark, it appeared that he had been detailed from aboard the first-class cruiser *Vitiaz* aboard the schooner *Maria*, seized by the cruiser for illegal seal fishing, for the purpose of conducting her to Vladivostok during the voyage, when in 46° 33′ latitude north and 140° 30′ longtitude east he sighted the bark *Cape Horn Pigeon*, and, suspecting it of engaging in the same

illegal industry, he sent his Second Ship's Ensign Simansky with armed sailors to ascertain what vessel it was, and what its mission. Having learned from the bark's Captain Thomas Scullun, who returned with Lieutenant Simansky, that it was a whaling vessel having aboard at that moment the product of two whales killed by him, Lieutenant von Cube found it impossible to abandon his first intention. Moreover, on examining the log book and the navigation chart of the bark, he was convinced that the latter had on several occasions approached the Russian coast of the sea of Okhotsk, where whaling is absolutely interdicted to foreigners. Furthermore, Lieutenant von Cube was confirmed in this opinion by the circumstance that at the approach of the schooner the bark had hoisted a signal, which, according to Captain Scullun's explanation, had been intended for the schooner *Mary H. Thomas*, expected that same night, and which also engaged in whaling and sealing. In view of these facts, Lieutenant von Cube considered it incumbent upon him, in the interest of the Russian Government, to conduct said bark to Vladivostok in order that the question might be decided at once whether or not she should be confiscated. But not having at his disposal a crew sufficiently numerous to put a portion of it upon the bark, and not wishing to trust to the bark's crew, he decided to go aboard the bark with his entire crew, and to keep with him the bark's captain he transferred the captain's mate, with the entire crew of the bark, aboard the schooner *Maria* and ordered them to repair to Vladivostok. The *Cape Horn Pigeon* arrived at Vladivostok on the 7th September and the schooner several days earlier.

The commission at once took cognizance of the statements relating to this affair, as well as of the documents in evidence, such as the log book kept by Lieutenant von Cube on the schooner *Maria*, and afterwards on the bark *Cape Horn Pigeon*, the log book of the latter kept by Captain Scullun, the sailing papers of the bark taken from the captain by Lieutenant von Cube, the navigation chart of the bark and the instructions given to commanders of Russian cruisers on being sent north, to regulate their conduct when boarding and seizing schooners suspected of marauding.

From the above-mentioned documents and the examination of said bark made by the commission (of which the protocol is hereunto attached) results the following:

1. The bark *Cape Horn Pigeon* having left Vladivostok on June 22 (7th July) of this year without obtaining the permission sought for to take whales in the bays and coast waters of the Sea of Okhotsk, caught two whales in said sea; she sighted the first of these and began the chase at 5 miles from the island of Askold, but was not successful in catching it there.

During her cruise to the west of Cape Aniva, she communicated several times while at sea with the schooner *Mary H. Thomas*, which, according to Captain Scullun's statement, is engaged in whaling and sealing.

2. Whaling in the Sea of Okhotsk is not interdicted to foreigners except in the bays, the gulfs, and straits, and in coast waters or along shore. It is even permitted to foreign fishing vessels in cases of extreme necessity to enter the bays and gulfs, provided they do not enter into such negotiations with the inhabitants as are forbidden by law.

3. Upon the bark were found the oil and bone of two whales killed, as said the captain, in the Sea of Okhotsk, in that part wherein whale fishing is permitted; but although the statements of the captain were confirmed by the log book and the chart, the commission did not consider this fact sufficiently proven.

4. The conduct of Lieutenant von Cube at the time of the seizure of the bark is considered by the commission perfectly regular, inasmuch as overhauling a suspicious vessel, in a suspicious locality, he could not do otherwise than seize it and submit to an investigation as to the legitimacy of the seizure by a superior authority. The commission will not fail to notice here that the mere feat alone of detaining a bark with a crew numbering 30 men by the much less numerous crew of the schooner shows the initiative spirit and resolution of Lieutenant von Cube.

In consequence of the preceding and the impossibility of establishing the fact that the two whales had been taken by the bark in that portion of the Sea of Okhotsk where whaling is prohibited, the commission is of opinion that the position of the bark near the Russian coasts does not of itself constitute an illegal act, and it declares that for this reason the bark *Cape Horn Pigeon* can not be convicted of having engaged in illegitimate business, and it does not see sufficient motives for its confiscation.

(Signed) Members:

YANEVITCH-YANEVSKY, Presiding Counsellor of College.
Captain of Frigate PHILISSOW,
Captain of Frigate DE LIVRON,
Ship's Captain ZARINE,
President, Ship's Captain HESSEN,
Executive Officer, Lieutenant PETROW,

EXHIBIT IV.

REPORT OF THE COMMANDER OF THE SECOND-CLASS CRUISER VITIAZ TO THE COMMANDER OF THE PACIFIC SQUADRON, DATED AT VLADIVOSTOK, SEPTEMBER 15, 1892, No. 389.

I have the honor to report to your excellency that in conformity with order No. 4003 of the office of administrator of the port of Vladivostok, dated 12th of September of present year, the American whaler *Cape Horn Pigeon*, which had been detained, was restored to the captain of said bark by Lieutenant von Cube.

(Signed) Ship's Captain ZARINE.

Examiner:

N. N.

On reaching these boats, which were found to belong to the schooner *Sayward*, I gave orders to seize them. The boats, with nine men, guns, and eight seals just killed, were taken aboard the cruiser and confiscated. The boats and guns were sold at auction in the village of Nicolsk for 200 rubles. At the court of inquiry these aliens declared to me the point at which the schooner lay, at southwest 45°, and I made way thither. Shortly thereafter we sighted the schooner, and at 4.30 we hove to in close proximity to the latter. The captain being requested to report aboard the cruiser with his ship's papers, presented himself; but I discovered that I had made a mistake. The poachers had misdirected me. This vessel proved to be the English schooner *Vancouver Belle*, commanded by Capt. W. H. Copp, 23 men in crew. There were aboard the schooner nearly 600 seal skins, salt, powder, and arms. I ordered her confiscation, since it developed from her log book that a portion of the seals had been caught in the strait between the islands. I took the captain and crew aboard, and I charged Lieutenant Koltchak to conduct her to Petropavlovsk. Immediately after the seizure a dense fog gathered, which robbed me of all possibility of discovering the cruiser *Sayward*. At 6.15 the fog lifted somewhat, and at a short distance I again sighted a schooner in 54° 10′ latitude north and 168° 22′ longitude east. The captain being requested to come aboard, presented his papers and his log book.

I learned from the log book that the American schooner *Kate and Anna*, detained by me at considerable distance off the islands, had twice been in the strait between the islands of Bering and Medny; that according to the captain's word he had passed into the strait on account of the bad weather, and had not caught any seals in Russian waters.

There were absolutely no convincing proofs against the schooner; therefore, on account of the irregularities of the log book, I took all the seal skins to the number of 124 and allowed the latter to depart, after giving him warning.

(Signed) Captain of Frigate DE LIVRON.

The above extract is in conformity with the original report, which was upon the books of the acting major-general of marine, 1892, No. 194.

(Signed) P. MIKHAILOW, [L. S.]
Governor in Chancery of the Ministry of Marine.
J. STEBLINE-KAMENSKY,
Deputy of the Jurisconsulate.

EXHIBIT II.

EXTRACT FROM THE JOURNAL KEPT ON BOARD THE SECOND-CLASS CRUISER ZABIAKA, DURING THE PROTECTIVE CRUISE OFF COMMANDER ISLANDS IN 1892.

Name and nationality of vessel: American sailing schooner *Kate and Anna*.
Cargo: One hundred and twenty-four seal skins, salt, shot, etc.
Tonnage: ———.
Name of captain: Charles Lutgens.
Number of crew: ———.

Circumstances of the case: On the 31st of July at 6.15, being in 64° 10′ latitude north and in 168° 22′ longitude east, we met the sailing schooner *Kate and Anna*. Having detained the schooner, we required the captain to report, with his papers. It was found that the schooner log had not been kept during the past ten days and the ship's journal in general could afford not the least justification. Moreover, the points indicated on the navigation chart caused me to suspect that the seals had been killed in our waters. For this reason they were confiscated. The captain made no resistance.

Decision: On account of the irregularity of the log book I confiscated the seal skins and required the captain to sign agreement not to kill seals in Russian waters and to enter on log book the warning he received.

(Signed) Captain of Frigate DE LIVRON.

1.3.0.93

REJOINDER

OF THE

PARTY CLAIMANT TO THE COUNTER MEMORANDUM OF THE DEFENDANT PARTY TO THE HONORABLE ARBITRATOR, MR. T. M. C. ASSER, COUNSELLOR OF STATE OF THE KINGDOM OF THE NETHERLANDS,

IN THE ARBITRATION TO REGULATE THE DIFFERENCES BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA, PARTY CLAIMANT, AND THE IMPERIAL GOVERNMENT OF RUSSIA, PARTY DEFENDANT, RELATIVE TO THE ARRESTS AND SEIZURES OF THE AMERICAN VESSELS, CAPE HORN PIGEON, JAMES HAMILTON LEWIS, C. H. WHITE, AND KATE AND ANNA.

Britain against the United States for seizures made in Bering Sea, and in the sentence of the arbitrator in the case of *Costa Rica Packet.*

The defendant party cited the decision of the arbitration tribunal on the cases known as the "Alabama claims" as establishing the principle of not allowing indemnity for claims for indirect damages. The indirect damages excluded by the tribunal at Geneva in adjudication of the "Alabama claims" were the loss in the transfer of the American merchant marine to the English flag: additional payments for insurance; the prolongation of the war, and the addition of a large sum to the expense of the war, and the suppression of the rebellion.

Furthermore, in the case of the whalers *James Maury*, *General Pike*, *Milo*, and *Nile*, seized by the Confederate States cruiser *Shenandoah*, for whose acts the Tribunal of Geneva found Great Britain responsible, damages specifically stated to be in lieu of loss of catch were allowed by the Court of Claims. The decision of the court in these four cases has been cited in the memorandum.

The amount of claims submitted by the Government of Great Britain for the seizure by Russia of the Canadian schooners *Willie Magowan* and *Ariel*, cited by the defendant party, has no bearing whatever on the question of amount of damages preferred here. That the English Government claimed and received or did not claim and did receive all of the indemnity for these seizures to which it was entitled can in no way affect the justice of the claims here presented nor furnish a precedent in the adjudication. These negotiations constitute a private agreement between the Governments of Russia and Great Britain.

The indemnity here claimed for loss of the catch is not in the nature of future benefits, but for the loss of the use of their property and the means of livelihood of which these claimants were deprived. They are entitled to restitutio in integrum. This could only be accomplished by restoring their property and their rights at the time and place of the seizure or in allowing them a compensation for the deprivation to which they were subjected. The latter is the only means to which it is now possible to resort. The measure of damages suffered through such deprivations can only be estimated upon the basis of the profit which the claimants could expect from the business they were engaged in.

One principle of the claim common to the three cases is that for the seizure and detention of the officers and crew of the vessels, and the bad treatment experienced by them, the estimate of which the defendant party finds excessive.

In further support of these claims, the party claimant submits the official report of the correspondence and of the action of the United States in the case of the arrest of the Russian subject, Gustav Isaak Dahlberg, master of the bark *Hans*, hereunto annexed and marked Exhibits "C" and "D," respectively.

Dahlberg was arrested and detained five days and, when it was demonstrated that his arrest was not legal, the United States Government paid him an indemnity of $5,000, which sum was proposed by the Russian Government as being satisfactory. This will demonstrate that the sums claimed under this head by the parties interested in the present arbitration are far from being exaggerated.

In each case of the present arbitration the defendant party has cited in the counter-memorandum the note of the United States ambassador dated January 27 (February 8), 1899 (Exhibit T of the *Cape Horn Pigeon*), in which, in the hope of settling these cases promptly terms of compromise settlement were proposed by the United States.

For the purpose of discrediting the bonus fides of these claims, the defendant party in making this citation in each case draws a comparison between the sums proposed by way of compromise without adding the interest, which naturally would be due at the time of settlement, and the amounts of the claims as they are at present shown, with interest added.

The party claimant protests against the citation or the consideration of the offer of settlement in such manner. The party claimant has entirely and specifically safeguarded all possible interpretation of abandonment of his rights to recover the entire amount of the claims.

The offer was made for a distinct and specific purpose, and not having been accepted by the defendant party, it can not now be cited as affecting in any way whatsoever the amount of indemnity to be recovered.

The counter-memorandum being, according to the terms of the protocol, the only argument of the defendant party to which the party claimant is permitted to reply, should be understood as representing all the defense of the defendant party except in that which concerns the argument on the present rejoinder of the party claimant, and therefore, as it is not open to the party claimant to rebut new testimony or to refute the application of new citations or of new arguments on the memorandum, the party claimant respectfully submits to the honorable arbitrator that no new testimony or arguments on the part of the defendant party should be admitted in the arbitration except to rebut the new facts, arguments, and citations contained in the present rejoinder.

EXHIBIT A.

Modus Vivendi Respecting the Fur-Seal Fisheries in Behring Sea.

Signed at Washington, June 15, 1891.
Proclaimed June 15, 1891.

By the President of the United States of America.

A PROCLAMATION.

Whereas an agreement for a modus vivendi between the Government of the United States and the Government of Her Britannic Majesty, in relation to the fur-seal fisheries in Behring Sea, was concluded on the fifteenth day of June in the year of our Lord one thousand eight hundred and ninety-one, word for word as follows:

Agreement between the Government of the United States and the Government of Her Britannic Majesty for a modus vivendi in relation to the fur-seal fisheries in Behring Sea.

For the purpose of avoiding irritating differences and with a view to promote the friendly settlement of the questions pending between the two Governments touching their respective rights in Behring Sea, and for the preservation of the seal species, the following agreement is made without prejudice to the rights or claims of either party.

I. Her Majesty's Government will prohibit, until May next, seal killing in that part of Behring Sea lying eastward of the line of demarcation described in Article No. 1 of the treaty of 1867 between the United States and Russia, and will promptly, use its best efforts to ensure the observance of this prohibition by British subjects and vessels.

II. The United States Government will prohibit seal killing for the same period in the same part of Behring Sea and on the shores and islands thereof, the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives) and will promptly use its best efforts to ensure the observance of this prohibition by United States citizens and vessels.

III. Every vessel or person offending against this prohibition in the said waters of Behring Sea outside of the ordinary territorial limits of the United States, may be seized and detained by the naval or other duly commissioned officers of either of the high contracting parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offense and impose the penalties for the same. The witnesses and proofs necessary to establish the offense shall also be sent with them.

IV. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with a view to the presentation of the case of that Government before arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose.

Signed and sealed in duplicate at Washington, this fifteenth day of June 1891, on behalf of their respective Governments, by William F. Wharton, Acting Secretary of State of the United States, and Sir Julian Pauncefote, G. C. M. G., K. C. B., H. B. M., envoy extraordinary and minister plenipotentiary.

WILLIAM F. WHARTON [SEAL.]
JULIAN PAUNCEFOTE [SEAL.]

Now, therefore, be it known that I, Benjamin Harrison, President of the United States of America, have caused the said agreement to be made public, to the end that the same and every part thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fifteenth day of June, in the year of our Lord one thousand eight hundred and ninety-one, and of the Independence of the United States the one hundred and fifteenth.

[SEAL.] BENJ. HARRISON.

By the President:
WILLIAM F. WHARTON,
Acting Secretary of State.

EXHIBIT B.

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN FOR THE RENEWAL OF THE EXISTING MODUS VIVENDI IN BERING SEA.

Signed at Washington, April 18, 1892.
Ratification advised by the Senate, April 19, 1892.
Ratified by the President, April 22, 1892.
Ratifications exchanged, May 7, 1892.
Proclaimed, May 9, 1892.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the United States of America and Great Britain for the renewal of the existing modus vivendi in Behring Sea was signed by their respective plenipotentiaries at the city of Washington, on the eighteenth day of April, one thousand eight hundred and ninety-two, the original of which convention, being in the English language, is word for word as follows:

Convention between the United States of America and Great Britain for the renewal of the existing "modus vivendi" in Behring Sea.

Whereas by a convention concluded between the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, on the twenty-ninth day of February, one thousand eight hundred and ninety-two, the high contracting parties have agreed to submit to arbitration, as therein stated, the questions which have arisen between them concerning the jurisdictional rights of the United States in the waters of Behring Sea and concerning also the preservation of the fur seal in, or habitually resorting to, the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur seal in, or habitually resorting to, the said waters; and whereas the high contracting parties, having differed as to what restrictive regulations for seal hunting are necessary during the pendency of such arbitration, have agreed to adjust such difference in manner hereinafter mentioned, and without prejudice to the rights or either party:

The said high contracting parties have appointed as their plenipotentiaries to conclude a convention for this purpose, that is to say:

The President of the United States of America, James G. Blaine, Secretary of State of the United States;

And Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pauncefote, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States;

Who, after having communicated to each other their respective full powers, found in due and good form, have agreed upon and concluded the following articles:

ARTICLE I.

Her Majesty's Government will prohibit, during the pendency of the arbitration, seal killing in that part of Behring Sea lying eastward of the line of demarcation described in Article No. I of the treaty of 1867 between the United States and Russia, and will promptly use its best efforts to ensure the observance of this prohibition by British subjects and vessels.

ARTICLE II.

The United States Government will prohibit seal killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof, the property of the United States (in excess of seven thousand five hundred to be taken on the islands for the subsistence of the natives), and will promptly use its best efforts to ensure the observance of this prohibition by United States citizens and vessels.

ARTICLE III.

Every vessel or person offending against this prohibition in the said waters of Behring Sea outside of the ordinary territorial limits of the United States may be seized and detained by the naval or other duly commissioned officers of either of the high contracting parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who alone shall have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proof necessary to establish the offence shall also be sent with them.

ARTICLE IV.

In order to facilitate such proper inquiries as Her Majesty's Government may desire to make with a view to the presentation of the case and arguments of that Government before the arbitrators, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or remain upon the Seal Islands during the sealing season for that purpose.

ARTICLE V.

If the result of the arbitration be to affirm the right of British sealers to take seals in Behring Sea within the bounds claimed by the United States, under its purchase from Russia, then compensation shall be made by the United States to Great Britain (for the use of her subjects) for abstaining from the exercise of that right during the pendency of the arbitration upon the basis of such a regulated and limited catch or catches as in the opinion of the arbitrators might have been taken without an undue diminution of the seal herds; and, on the other hand, if the result of the arbitration shall be to deny the right of British sealers to take seals within the said waters, then compensation shall be made by Great Britain to the United States (for itself, its citizens and lessees) for this agreement to limit the island catch to seven thousand five

hundred a season, upon the basis of the difference between this number and such larger catch as in the opinion of the arbitrators might have been taken without an undue diminution of the seals herds.

The amount awarded, if any, in either case shall be such as under all the circumstances is just and equitable, and shall be promptly paid.

ARTICLE VI.

This convention may be denounced by either of the high contracting parties at any time after the thirty-first day of October, one thousand eight hundred and ninety-three, on giving to the other party two months' notice of its termination; and at the expiration of such notice the convention shall cease to be in force.

ARTICLE VII.

The present convention shall be duly ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged either at Washington or at London as early as possible.

In faith whereof, we, the respective plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done in duplicate at Washington this eighteenth day of April, one thousand eight hundred and ninety-two.

JAMES G. BLAINE. [SEAL.]
JULIAN PAUNCEFOTE. [SEAL.]

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of London, on the seventh day of May, one thousand eight hundred and ninety-two;

Now, therefore, be it known that I, Benjamin Harrison, President of the United States of America, have caused the said convention to be made public, to the end that the same, and every article and clause thereof, may be observed in good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this ninth day of May, in the year of our Lord one thousand eight hundred and ninety-two, and of the Independence of the United States the one hundred and sixteenth.

BENJ. HARRISON.

By the President:
JAMES G. BLAINE, *Secretary of State.*

EXHIBIT C.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, TRANSMITTING A REPORT FROM THE SECRETARY OF STATE AND ACCOMPANYING PAPERS RELATING TO THE CLAIM AGAINST THE UNITED STATES OF THE RUSSIAN SUBJECT, GUSTAV ISAK DAHLBERG, MASTER AND PRINCIPAL OWNER OF THE RUSSIAN BARK HANS.

[April 27, 1898.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.]

To the Congress:

I transmit herewith a report from the Secretary of State and accompanying papers relating to the claim against the United States of the Russian subject, Gustav Isak Dahlberg, master and principal owner of the Russian bark *Hans*, based on his wrongful and illegal arrest and imprisonment by officers of the United States district court for the southern district of Mississippi, and, in view of the opinion expressed by the Department of Justice that the said arrest and detention of the complainant were wrongful and without authority of law, I recommend the appropriation by Congress of the sum of $5,000 to reimburse the master and owners of the vessel for all losses and damages incurred by reason of his said wrongful and illegal arrest and detention.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
Washington, April 27, 1898.

1.31 & 36

The PRESIDENT:

The undersigned, Secretary of State, has the honor to submit for transmission to Congress, if deemed proper, a memorial of the claim of Gustav Isak Dahlberg, a Russian subject, master and principal owner of the Russian bark *Hans*, based on his wrongful and illegal arrest and imprisonment by officers of the United States district court for the southern district of Mississippi.

The facts of the case appear to be that the complainant was arrested on board his vessel, then lying off Ship Island, Mississippi, in the early morning of February 10, 1896, by a United States deputy marshal, provided with a warrant issued by the deputy clerk of the United States district court for the southern district of Mississippi, at the suit of one Perttison, a member of the crew of said vessel, the said warrant having been issued in violation of the provisions of Article VIII of the treaty of December 18, 1832, between the United States and Russia, which stipulates that the consular officers of the contracting parties shall have jurisdiction over disputes between the master of a vessel and the members of his crew.

The captain was taken by the marshal to Mississippi City and there confined in a dirty jail, in company with criminals, from February 10 to February 15, inclusive.

He protested against the unlawfulness of his detention, and demanded a hearing before a judicial officer, but he was given no opportunity of having the lawfulness of his imprisonment examined into until the Russian consular officer at Mobile, Ala., intervened, and, having employed legal counsel, obtained, on February 14, a writ of habeas corpus in his behalf, returnable on the 17th of the same month.

On the day after the issue of the writ, and before the case could be heard, the jailor informed Captain Dahlberg that he was free and could leave the jail, but furnished him with no explanation either of his imprisonment or his release.

The complainant then went to Mobile for consultation with the consular officer of his nation. He alleges further that, having appeared with his counsel at Mississippi City on the 17th of February, the return day of the writ of habeas corpus, and also the return day of the warrant of arrest, just as he was about to enter court with his counsel, they met the judge from whose court the warrant had issued, and that the said judge stated to him that there was no case against him. That he then asked, "Is that all the redress I am to get?" to which the judge replied, "I already decided Saturday that there was no case."

The complainant states that, in addition to the physical suffering, discomfort, and humiliation caused by his arrest and imprisonment, he was subjected to considerable expense in attempting to obtain his release; that he was unable to return with his ship; that the ship was delayed for several days because of his arrest, and that, in consequence of these facts, he has suffered considerable pecuniary damages.

The case was referred to the Department of Justice for investigation, and, on May 20, 1896, the Acting Attorney-General reported to this Department that "the arrest and imprisonment and detention of Captain Dahlberg were altogether without authority of law."

In view of this opinion of the Department of Justice, and of the appeal made to the sense of justice existing in the Government of the United States, I have the honor to recommend that the case be submitted to Congress, and that body be requested to appropriate the sum of $5,000, to be paid to the Russian diplomatic representative in this capital, in full satisfaction of losses and damages incurred by Captain Dahlberg and the owners of the said Russian bark *Hans*, by reason of the arrest and imprisonment of said master.

Respectfully submitted.

JOHN SHERMAN.

DEPARTMENT OF STATE,
Washington, April 25, 1898.

List of papers.

Memorandum filed by Russian legation, March 16, 1896.
Mr. Olney to Mr. Harmon, March 17, 1896.
Mr. Olney to Mr. de Kotzebue, No. 42, March 17, 1896.
Mr. Harmon to Mr. Olney, March 21, 1896.
Mr. de Kotzebue to Mr. Olney, No. 233, April 10, 1896.
Mr. Harmon to Mr. Olney, April 10, 1896.
Mr. Olney to Mr. Harmon, April 14, 1896.
Mr. Harmon to Mr. Olney, April 15, 1896.
Mr. Olney to Mr. de Kotzebue, No. 48, April 18, 1896.

very much obliged to your excellency if you will reconsider the matter and give it your fullest attention in order to bring it to the best possible solution.

Awaiting your pleasure, I beg you to accept, dear sir, the renewed assurances of my highest consideration.

GREGORY DE WOLLANT.

Mr. Sherman to Mr. de Wollant.

No. 138.] DEPARTMENT OF STATE,
Washington, December 18, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant in regard to the claim for damages presented by Captain Dahlberg, master and principal owner of the Russian bark *Hans*, based on a wrongful arrest and imprisonment.

In reply I have the honor to say that the Department is disposed to lay the claim before Congress, if an agreement can be first reached as to a reasonable indemnity to be recommended to that body.

Accept, etc., JOHN SHERMAN.

Mr. de Wollant to Mr. Day.

No. 148.] RUSSIAN IMPERIAL LEGATION,
Washington, March 27 (April 8), 1898.

MY DEAR MR. DAY: Referring to our yesterday's conversation in regard to the claim of Capt. G. E. Dahlberg and to your proposal of recommending to Congress an indemnity of $5,000 for Captain Dahlberg, I have the honor to state that I am authorized by my Government to give my consent to this arrangemeut.

Very truly, yours,

GREGORY DE WOLLANT.

Mr. Day to Mr. de Wollant.

Personal.] DEPARTMENT OF STATE,
Washington, April 14, 1898.

MY DEAR SIR: I have to acknowledge the receipt of your note of the 8th instant, stating that you are authorized by your Government to accept the proposal made by the Department to transmit to Congress the claim of Captain Dahlberg, master and principal owner of the Russian bark *Hans*, based upon a wrongful arrest and imprisonment, the Department recommending the appropriation of $5,000 to indemnify him for all damages suffered and losses incurred.

In reply I have to say that as soon as the papers in the case can be copied the claim will be transmitted to Congress and the appropriation of the indemnity recommended.

Very truly, yours, WILLIAM R. DAY, *Assistant Secretary.*

EXHIBIT D.

[Public—No. 136.]

AN ACT making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, nineteen hundred and one, and for prior years, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the appropriations for the fiscal year nineteen hundred and one, and for prior years, and for other objects hereinafter stated, namely:

To reimburse the master and owners of the Russian bark *Hans* for all losses and damages incurred by reason of the wrongful and illegal arrest and detention of Gustav Isak Dahlberg, the master and principal owner of said bark, by officers of the United States district court for the southern district of Mississippi in eighteen hundred and ninety-six, five thousand dollars.

Pour copie conforme.

1.3.2.57

FIRST CASE.

The Cape Horn Pigeon.

As the defendant party in the case of the seizure and detention of this vessel recognizes that an indemnity is due, there remains but to settle the amount of damage interest to be paid to the party claimant.

The party claimant maintains that it is not bound by the claims presented by the captain of the *Cape Horn Pigeon* as a complete statement of damages suffered. The captain was, at the moment of the seizure and until the moment of arrival in an American harbor, the natural guardian of the interested parties. And it is probable that if the Russian Government had indemnified him according to the conditions which he proposed, that indemnity would have been agreed to by all the interested parties as a compromise. But once the captain's proposition was rejected it has no more weight, and the claimants are free to present new claims, including damages sustained by them of which the captain had lost sight.

There is no longer any question of how much Captain Scullun or other agent of the claimants may then have asked, but of how much is due in equity to the claimants for the damages they sustained.

1. The opinion of the party claimant that the loss of the catch constitutes the true measure of damage sustained in the loss of service of the vessel is set forth both in the memorandum and in the observations of this rejoinder, which relate generally to the four cases in litigation.

2. As to the claims for indemnity of each member of the crew in the sum of $1,000 for their enforced service in the Russian navy and their compulsory navigation of a Russian armed cruiser, as well as the subsequent bad treatment, it appears that the defendant party finds a repetition of the claim for services of the crew in conducting the Russian cruiser to Vladivostok, which is estimated at $1,200. This is a mistake. The services of the crew in this respect, for which the defendant party admits these men should be remunerated, are entirely distinct from the questions touching the bad treatment or their enforced naval service of a country other than their own.

The defendant party admits that the seizure of the *Cape Horn Pigeon* was a much to be regretted error, for which indemnity is due. Therefore there is no escaping the conclusion that all restraint inflicted upon these men constituted a wrong done them. This being true, the taking them from their own vessel and placing them as crew aboard a man-of-war flying the flag of a country other their own and obliging them to navigate such vessel was an outrage to them, and failure to recognize the gravity of that outrage would be to open the way to seizure of merchant vessels on the high seas and the impressment of their crews into foreign marine service by every armed cruiser that so desired.

Concerning the question of bad treatment sustained by the crew of the *Cape Horn Pigeon* at Vladivostok, the defendant party protests against the allegations of the party claimant in that regard, but is content to quote the opinion expressed by the chargé d'affaires of the United States at St. Petersburg in his note of the 9th (21st) September, 1892 (Exhibit K of the *Cape Horn Pigeon*), and the allegation that the crew of the whaler was twice and one-half as numerous as that of the cruiser. In the first place, the note of the chargé d'affaires expresses only the opinion, "I trust and believe." As to the question of numerical strength, it suffices to say the whaler was a merchant ship without armament, which had to deal with an armed cruiser of the Russian navy, with all which that implies.

It appears that in the case in question the defendant party takes the position that the captain and crew should have made resistance to the seizure, although in the case of the *James Hamilton Lewis* this same resistance is cited as wrong as well as proof of guilt.

The defendant party expresses the opinion in the counter-memorandum that all of the members of the crew of the *Cape Horn Pigeon* were not Americans, and that the claims of such among them as were of other nationalities should be presented by their respective Governments.

The party claimant contests this view. The sailors who embarked upon the *Cape Horn Pigeon* were entitled to the protection of the United States flag which it carried. The owners of the vessel are the guardians of the members of the crew for their share of the catch, or of the indemnity allowed in lieu of it, as also for all compensation they may receive, and the United States Government, whose duty it is to protect sailors who embark under her flag, is not relieved of her obligation toward them until she presents their claims for indemnity for losses and wrongs suffered by them. These claims are not presented by the members of the crew, but by the United States Government. There were no Russian subjects among the crew of this vessel, and the party claimant submits that as guardian of the interests of these men in this respect it is for that nation whose flag was violated to present their claims, and not for the several Governments to which these men respectively owed allegiance to do so.

This principle was recognized in the affair *Trent*, where an English packet was seized in open sea by an armed cruiser of the United States and two persons among the passengers were seized by a belligerent. It was admitted that the Government of Great Britain had the right to demand restitution of these persons into its jurisdiction, which was accordingly done.

The conditions of the protocol do not fix the limits of nationality of the claimants, but on the contrary it states that the two high contracting powers are of accord in submitting to arbitration the case of the whaling vessel *Cape Horn Pigeon*, her shipowners, captain, officers, and crew. The arbitration is declared to be between the two Governments. Thus the Government becomes the guardian of the interests of all the crew without distinction of nationality.

3. Regarding the claim of $1,200 for services of the officers and crew of the *Cape Horn Pigeon* for navigating the Russian cruiser, the claimant party refers again to the arguments on this subject contained in the memorandum, wherein the grounds for this claim are set forth.

What the captain demanded when he was in a position to act as agent

1,312,158

for the claimants should have no consideration here. It is rather a question of what is the just and equitable indemnity for the services rendered in this regard that is in litigation. The admission of the defendant party that a sum of $1,000 for indemnity is due shows very clearly that the ordinary wages of the sailors are not considered sufficient compensation under the circumstances. The defendant party assents to the round sum demanded by the captain, but does not indicate how that sum should be distributed among the crew.

4. The sums of $200 for provisions consumed, and $210 for lodgings, and $50 for the personal expenses of Captain Scullun are not disputed.

5. As to the principal of $3,040 the claimant party must again refer to the memorandum wherein the details of this total are fully set forth.

6. The matter of interest not having been disputed as a principle, the party claimant does not think necessary to return to that portion of the claim.

To sum up, the party claimant reiterates the demand for indemnity for damages which are set forth in the memorandum for the seizure and detention of the *Cape Horn Pigeon*, her officers and crew, by submitting to the honorable arbitrator that the defendant party has failed in any way to rebut the evidence presented in the memorandum in support of these claims stop. The party claimant asks therefore that the total amount of indemnity claimed be granted, including interest from the moment of seizure until the day of the receipt by the party claimant of the amounts which may be allowed.

Regarding the question of the duty of the United States Government to protect the sailors of the *Cape Horn Pigeon* who were not American citizens, the defendant party cites the sentences of the Court of Claims for the settlement and distribution of the sums allowed in the arbitration at Geneva on *Alabama* claims.

According to the act of 1874 no claim was admitted "arising in favor of any person not entitled, at the time of his loss, to the protection of the United States in the premises."

The court decided that this did not exclude men enrolled, at the time their claims were brought up, in the merchant marine or in whaling vessels under the United States flag, such men being entitled to the protection of the United States even though they be foreigners not naturalized.

The court decided, however, that this rule does not apply to English subjects, for it did not intend to make them beneficiaries in the amount of indemnity granted. (Report of John Davis, clerk of the Court of Commissioners of Alabama Claims; case of Benjamin Worth *v.* The United States, opinion of Judge Raynor in the same court.)

1.3.a.59

SURREJOINDER

OF THE

PARTY DEFENDANT TO THE REJOINDER OF THE PARTY CLAIMANT TO THE COUNTER MEMORANDUM OF THE RUSSIAN GOVERNMENT PRESENTED TO THE HONORABLE ARBITRATOR, MR. T. M. C. ASSER, COUNSELOR OF STATE OF THE NETHERLANDS.

IN THE ARBITRATION FOR THE PURPOSE OF ADJUSTING THE DIFFERENCES BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA, PARTY CLAIMANT, AND THE IMPERIAL RUSSIAN GOVERNMENT, PARTY DEFENDANT, RELATIVE TO THE ARRESTS AND SEIZURES OF THE AMERICAN VESSELS *CAPE HORN PIGEON, JAMES HAMILTON LEWIS, C. H. WHITE,* AND *KATE AND ANNA.*

ST. PETERSBURG.

CASE I.

The "Cape Horn Pigeon."

In the first case, as in those following, the defendant party refers to the arguments submitted above to the honorable arbitrator in the present rejoinder and its annexes and maintains the same conclusions developed in the counter-memorandum.

Regarding the fact that this is a question of a whaler, set up by the party claimant, the defendant party declares that the interdiction of hunting under penalty of confiscation of vessel and cargo, contained in the notice published in 1881–82, extended to all the animals of the sea (Exhibit F) and consequently also to whales. As has been said in the counter-memorandum, if Lieutenant von Cube, commanding the Russian schooner *Maria*, believed that the seizure was in consonance with the duty with which he was charged of arresting vessels engaged in illicit sealing, it was because he suspected the *Cape Horn Pigeon* of being one of those vessels which act as depots for the spoils of such hunting.

The defendant party has declared itself ready to reimburse the parties in interest to the amount of $2,500 ($1,000, $200, $210, $50, $1,040), with interest at 6 per cent from September 15 (27), 1892, but it rejects all the other demands.

The defendant party maintains on its behalf that there is a repetition for the same object in the American memorandum in relation to the indemnity to the crew for services rendered in bringing the schooner *Maria* to Vladivostok. Discarding all idea of outrage, the defendant party recalls attention to the very exceptional situation at that time regarding the supervision of the western portion of Bering Sea, and states that Lieutenant von Cube acted in perfect good faith in bringing to Vladivostok an American bark regarded by him as suspicious, and obliging the crew thereof to take service on a Russian war ship. The defendant party is ready, however, to turn over the sum of $1,000 for such service, as well as the sums of $200 expenses of board, $210 for lodgings, and $50 for the personal expenses of the captain, and further, $1,040 for the general expenses of the owners of the bark.

With regard to the bad treatment alleged to have been inflicted on the crew, the defendant party protests, as it has always done, against these allegations, which are bare of any sufficient evidence.

The defendant party believes that it has sufficiently developed in the counter-memorandum and in the present rejoinder the reasons why it is unable to admit that the present case, as well as the others, could offer grounds for indirect damages, inasmuch as the arguments set forth above are not specially applicable to sealing, but relate to the hunting of all marine animals. The defendant party further points out that the party claimant has put forward very particularly the obiigation of making restitutio in integrum. But it does not seem that this term

of Roman law is applicable to the present case; it relates to the canceling of the legal consequences of a certain act, that is to say, the reestablishment of the original situation of rights by reason of certain circumstances, for instance, for the state of minority of the person who has concluded a contract.[a] The special rule which concerns cases of this nature can not be confounded with the qualifications of settlement of damages. It must be stated again in this connection that even by the term lucrum cessans could not be understood every sort of profit that a person might eventually be able to obtain if an unexpected circumstance had not occurred to prevent, but by it should be understood the profit on which that person could count with certainty. The Roman laws (Fr. 29 ad leg. Aquil. 9, 2) said positively that if a net was damaged one could not estimate the value of the fish which, owing to that circumstance, could not have been taken. The defendant party only feels itself bound to make restitution for the real damage, damnum emergens, as having acted in a case of force majure and of legitimate defense owing to exceptional circumstances, and in making use of that which was its right within the limits which the party claimant can not do otherwise than recognize; consequently the defendant party invokes in this place the adage, qui jure suo utitur, neminem loedit.

EXHIBIT F.

NOTICE.

The Russian Imperial Government hereby publishes for general knowledge the following:

(1) Without a special permit or license from the governor-general of Eastern Siberia, foreign vessels are not allowed to carry on trading, hunting, etc., on the Russian coast, or islands in the Okhotsk and Bering seas or on the northeast coast of Asia, or within their sea-boundary line.

(2) For such permits or licenses foreign vessels should apply at Vladivostok exclusively.

(3) In the port of Petropavlovsk, though being only the port of entry in Kamchatka, such permits or licenses shall not be issued.

(4) No permits or licenses whatever shall be issued for hunting, fishing, or trading at or on the Commodore and Robben islands.

(5) Foreign vessels found trading, fishing, hunting, etc., in Russian waters without a license or permit from the governor-general, and also those possessing a license or permit who should infringe on the existing by-laws on hunting, shall be confiscated, both vessels and cargoes, for the benefit of the Government. This enactment shall be enforced henceforth, commencing with A. D. 1882.

(6) The enforcement of the above will be intrusted to Russian men-of-war and also to Russian merchant vessels, who, for that purpose, will carry military detachments and be provided with proper instructions.

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[a] Windscheid. Manual of Pandectic Law, section 114 et seq.; Gudsmidt. Courts of the Pandectes, section 109 et seq.

1.3.21 b1

DECISION OF THE ARBITRATOR.

THE CASE OF THE "CAPE HORN PIGEON."

The undersigned, Tobie Michel Charles Asser, member of the council of state of the Netherlands, exercising the functions of arbitrator, which he has had the honor to have conferred upon him by the Government of the United States of America, and the Imperial Government of Russia, to decide as to the differences relating to the affair of the bark *Cape Horn Pigeon:*

Whereas by virtue of the declarations exchanged at St. Petersburg the 26th August (September 8) 1900, between the aforesaid two Governments, the arbitrator shall take cognizance of the claims for indemnity for the seizure and detention of certain American vessels by Russian cruisers, brought against the Imperial Russian Government by the Government of the United States in the name of the parties in interest;

That according to these declarations the arbitrator, following in his award the general principles of international law and the spirit of international agreements applicable to the subject, shall determine with regard to each claim filed against the Imperial Russian Government, whether it is well founded, and if so, whether the facts upon which it is based are proved;

That, furthermore, it is recognized that this stipulation shall have no retroactive force, and that the arbitrator will apply to the cases in litigation the principles of international law and the international treaties which were in force and binding upon the parties engaged in this litigation at the time the seizure of the vessels took place;

Finally, that the arbitrator shall fix the amount of the indemnity which may be due from the Russian Government on account of the claims presented by the parties in interest;

Whereas, after a minute examination of the memoranda and counter memoranda exchanged between the high-contracting parties, as well as of all the exhibits of each side, the arbitrator, availing himself of the right accorded him by the said declarations of St. Petersburg, invited the two Governments to name commercial experts to aid him in fixing the amount of the indemnity which would eventually be due, and in addressing himself to that effect to the two high-contracting parties the arbitrator at the same time prayed them to furnish supplementary information regarding the points of law, indicated by him;

Whereas, in the sittings held by the arbitrator at The Hague in the hall of Permanent Court of Arbitration, from the 27th June to the 4th July, 1902, he heard the depositions of experts in the presence of the agents of the two high-contracting parties, who on that occasion furnished the supplementary information asked for by the arbitrator;

Whereas, in support of the claim relative to the seizure and detention of the American whaler *Cape Horn Pigeon* by an armed cruiser of the Imperial Russian Government, the party claimant alleged the following facts:

The bark *Cape Horn Pigeon*, constructed for whaling, having set sail from San Francisco on the 7th December, 1891, with a crew of thirty men besides the captain (named Scullun or Scullan) for a voyage in the seas of Japan and Okhotsk was, on the 10th September, 1892, in the Sea of Othotsk, on the high seas, engaged in whaling, when it was seized and detained by the commander of a vessel of the Russian navy (cruiser) and conducted to Vladivostok, where it was detained by the Russian authorities until the 1st October, 1892. After the seizure of the bark, her crew was placed aboard the Russian schooner *Maria* (which according to the declaration of the defendant party had been seized by the Russian cruiser for illegal sealing), and was forced to conduct her into the port of Vladivostok. In that town, after they had been told that they would be lodged in the guard house, this shelter from cold and hunger was refused them, and the captain found himself obliged to secure lodgings for them in a shed. They were detained from day to day without being told the reason, and finally, on the 1st October, 1892, they were sent back to their vessel.

Whereas the defendant party recognizes that in this case a regrettable error occurred, since the naval officer (Lieutenant Von Cube) was mistaken in suspecting the *Cape Horn Pigeon* of being engaged in illegitimate hunting, and consequently the Imperial Government, recognizing its responsibility, offered to pay a pecuniary indemnity for the actual losses caused to the aliens by the acts of its governmental agents;

Whereas the task of the arbitrator in this affair consists in fixing the amount of indemnity to be paid by the defendant party;

Whereas the claim of the party claimant amounts to a total of $80,700, with interest at 6 per cent per annum from the 10th of September, 1892, and that the defendant party has offered to pay $2,500 also with interest at 6 per cent per annum;

Whereas the defendant party thinks that the first item of the claim amounting to $3,040 for the expenses of the owner of the *Cape Horn Pigeon* on account of the seizure should be reduced to $1,040, and in fact, the amount claimed not being sufficiently justified, it might be reduced in conformity with the conclusions of the defendant party;

Whereas, for the services of the crew of the *Cape Horn Pigeon* for conducting the Russian schooner to Vladivotsok, the sum of $1,000, offered by the defendant party in lieu of the sum of $1,200 claimed by the party claimant, seems sufficient;

Whereas the defendant party admits as justified the claims for provisions consumed, $200; for lodgings for the crew, $210; for personal expenses of Captain Scullun, $50; total, $460;

Whereas the party claimant claims $45,000 for loss of the catch during the time which transpired between the seizure of the whaler and the day on which he was able to resume whaling; and the defendant party contests the underlying principle of that part of the claim, alleging that it is question of the profit of an enterprise liable to risks and which may readily terminate in loss, and applying in support of the assertion the award of the court of arbitration of 1872 in the case of the "Alabama claims," by which the claims for indemnity for indirect damages were set aside;

Considering that the general principle of civil law, according to which the damages should include an indemnity, not only for the loss suffered, but also for the profit of which one has been deprived, is equally applicable to international litigation, and that in order to apply it, it is not necessary that the amount of the profit of which one is deprived should be exactly determined, but that it suffices to show that in the natural order of things one would be able to realize a profit of which one is deprived by the act which gives rise to the claim;

Considering that in this case it is not a question of indirect damage, but of direct damage, the amount of which should be estimated;

Considering the amount of that part of the claim which the party claimant takes for starting point, the average number of whales taken in one season, which he estimates at 8, and from which he deducts 2, which Captain Scullun had already taken, leaving 6 as probable number of whales still to be caught by him, if the vessel had not been arrested and seized;

Considering, however, that according to Captain Scullun's own declaration he had taken 28 whales in four seasons, which make 7 per season, and whereas 7 indicate more justly the average catch for the whaler *Cape Horn Pigeon* during one season, which, after deducting the 2 whales already caught, gives 5 for the remaining probable catch;

Considering that with regard to the approximate value of a whale at the period when the product of the catch of the *Cape Horn Pigeon* in 1892 could have been sold, the result of the inquiry which took place in this arbitration, and the information furnished to the arbitrator, show that the average weight of the bone to be obtained from 1 whale may be estimated at 1,200 pounds and the average price at $4 per pound, the average quantity of oil at 100 barrels and the average price at $12 per barrel, which makes a total of $6,000 per whale and $30,000 for 5 whales, or after the deduction of $1,500, instead of $1,800 deducted by Captain Scullun, $28,500;

Considering, with regard to the indemnity claimed for the members of the crew at $1,000 per man to be $31,000, that it is not proved that the members of the crew were subjected to the bad treatment of which they complain, but that, on the other hand, the very fact that they were detained against their will at Vladivostok for about three weeks in consequence of the illegal seizure of their vessel, entitles them to indemnity independently of that which is due them for having been forced to conduct a Russian vessel to Vladivostok, and the amount of this indemnity should be fixed at $7,750, or an average of $250 per capita;

That, consequently, the total of damage due from the defendant party to the party claimant as a result of the detention and seizure of the *Cape Horn Pigeon* amounts to the sum of $38,750;

Considering that the defendant party recognized as perfectly regular the addition of interest at 6 per cent per annum;

Therefore, the arbitrator decides and pronounces the following:

The defendant party shall pay to the party claimant on account of the claims presented by the parties in interest in the case of the *Cape Horn Pigeon* the sum of $38,750 in United States money, with interest on that sum at 6 per cent per annum from the 9th of September, 1892, until the day of the payment in full.

Done at the Hague, November 29, 1902.

T. M. C. ASSER.

124 peaux de phoques, que la Partie demanderesse réclame $14 par peau, que la partie défenderesse offre $10 per peau, mais qu'il est juste de fixer l'indemnité à $12 par peau, soit $1,488 pour les 124 peaux;

Par ces motifs,

L'Arbitre décide et prononce ce qui suit:

La Partie défenderesse paiera à la Partie demanderesse pour le compte des réclamations présentées par les ayants-droit dans l'affaire du Kate and Anna, la somme de $1,488 des Etats-Unis d'Amérique, avec les intérêts de cette somme à 6 pour cent par an, depuis le 12 août 1892 jusqu'au jour du paiement intégral.

Fait à la Haye, le 29 novembre 1902.

T. M. C. ASSER.

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COUNTER MEMORANDUM

OF THE

DEFENDANT PARTY TO THE HONORABLE ARBITRATOR, MR. T. M. C. ASSER, COUNSELOR OF STATE OF THE KINGDOM OF HOLLAND.

IN THE ARBITRATION FOR THE PURPOSE OF ADJUSTING THE DIFFERENCES BETWEEN THE GOVERNMENT OF THE UNITED STATES, CLAIMANT PARTY, AND THE IMPERIAL RUSSIAN GOVERNMENT, DEFENDANT PARTY, RELATING TO THE DETENTION AND SEIZURES OF AMERICAN VESSELS *CAPE HORN PIGEON*, *JAMES HAMILTON LEWIS*, *C. H. WHITE*, AND *KATE AND ANNA*

EXHIBIT R.

UNITED STATES OF AMERICA.

TREASURY DEPARTMENT, *April 5, 1900.*

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed are true and correct copies of the records in this Department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL.]

Secretary of the Treasury.
S. J.
S. M. G.

TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
Washington, D. C., April 5, 1900.

SIR: Referring to your letter dated the 4th instant, I transmit herewith a certified copy of a record in this Department relating to the time of certain yacht races in the United States.

Respectfully,

T. R. SANDERS,
Acting Commissioner.

Mr. GEO. R. TINGLE,
Room 3, 1008 F street NW., Washington, D. C.

The following table, which has been corrected to date, setting forth the facts, will be found valuable for reference:

Date.	Name.	Owner.	Course.	Time.
				h. m. s.
Aug. 22, 1851	America	John C. Stevens and others.	From Cowes around Isle of Wight (Aurora second).	10 37 0
Aug. 8, 1870	Aurora Magic	Thomas Le Marchant Franklin Osgood		.....
Oct. 16, 1871	Cambria Columbia	James Ashbury Franklin Osgood	N. Y. Y. C. course (Cambria tenth).	3 58 21 4 37 38
	Livonia	James Ashbury	N. Y. Y. C. course	6 19 41
Oct. 18, 1871	Columbia Livonia	Franklin Osgood James Ashbury	20 miles to windward off Sandy Hook light-ship and return.	6 46 45 3 7 41½
Oct. 19, 1871	Livonia Columbia	James Ashbury Franklin Osgood	N. Y. Y. C. course (Columbia disabled).	3 18 15 4 2 25
Oct. 21, 1871	Sappho Livonia	W. P. Douglas James Ashbury	20 miles to windward off Sandy Hook light-ship and return.	4 17 35 5 39 2
Oct. 23, 1871	Sappho Livonia	W. P. Douglas James Ashbury	N. Y. Y. C. course	6 9 23 4 46 17
Aug. 11, 1876	Madeleine Countess of Dufferin	J. S. Dickerson Maj. C. Gifford	do	5 11 55 5 23 54
Aug. 12, 1876	Madeleine Countess of Dufferin.	J. S. Dickerson Maj. C. Gifford	20 miles to windward off Sandy Hook light-ship and return.	5 34 53 7 18 46 7 46 0
Nov. 9, 1881	Mischief Atalanta	J. R. Bush Alexander Cuthbert	N. Y. Y. C. course	4 17 9
Nov. 10, 1881	Mischief Atalanta	J. R. Bush Alexander Cuthbert	16 miles to leeward from buoy 5, off Sandy Hook and return.	4 45 39 4 54 53
Sept. 14, 1885	Puritan Genesta	J. M. Forbes Sir R. Sutton	N. Y. Y. C. course	4 33 47 6 6 5
Sept. 16, 1885	Puritan Genesta	J. Forbes and others Sir R. Sutton	20 miles to leeward off Sandy Hook light-ship and return.	6 22 24 5 3 14
Sept. 7, 1886	Mayflower Galatea	Gen. C. J. Paine Lieutenant Henn, R. N	N. Y. Y. C. course	5 4 52 5 26 41
Sept. 11, 1886	Mayflower Galatea	Gen. C. J. Paine Lieutenant Henn, R. N	20 miles to leeward off Sandy Hook light-ship and return.	5 38 43 6 49 0
Sept. 27, 1887	Volunteer Thistle	Gen. C. J. Paine James Bell	N. Y. Y. C. course	7 18 9 4 53 18
Sept. 30, 1887	Volunteer Thistle	Gen. C. J. Paine James Bell	20 miles off Scotland light-ship and return.	5 12 41 5 42 56
Oct. 7, 1893	Vigilant Valkyrie	Morgan-Iselin syndicate Lord Dunraven	15 miles to leeward	5 54 45 4 5 47
Oct. 9, 1893	Vigilant Valkyrie	Morgan-Iselin syndicate Lord Dunraven	Triangle, 30 miles	4 11 35 3 25 1
Oct. 13, 1893	Vigilant Valkyrie	Morgan-Iselin syndicate Lord Dunraven	15 miles to windward	3 35 36 3 24 39 3 25 19

1.3.2.744

EXHIBIT S.

[*Cat. No. 335.—Register No. 75. Permanent.* Official number. Numerals, 26, 96. Letters

Copy of certificate of registry.

In pursuance of Chapter I, Title XLVIII, "Regulation of Commerce [illegible] tion," Revised Statutes of the United States, Geo. Liebes, of San Francisco, [illegible] California, agent, having taken and subscribed the oath required by law, [illegible] sworn that Herman Liebes, of said place, is the only owner of the vessel [illegible] *James Hamilton Lewis*, of San Francisco, whereof Alexander McLean is at present master and is a citizen of the United States; and that the said vessel was built in the [illegible] 18—, at unknown, as appears by temporary register No. 55, issued at Portsmouth November 29, 1889, now surrenders of home port, and said register having certified that the said vessel has 1 deck and 2 masts, and that her length is 75 and 2-tenths feet, her breadth 21 feet and 8-tenths, her depth 8 feet and 3-tenths, her beam —— feet and —— tenths, that she measures 77 tons and 52 hundredths, viz:

Capacity under tonnage deck	[illegible]
Capacity between decks above tonnage deck	[illegible]
Capacity of inclosures on the upper deck, viz	[illegible]
Gross tonnage	[illegible]
Deductions under section 4153, Revised Statutes, as amended by act of August 5, 1882:	
Total deductions	5.19
Net tonnage	[illegible]

The following-described spaces, and no others, have been omitted, viz: And that she is a schooner, has a billet head and an elliptic stern, and the [illegible] agent * * *, having agreed to the description and measurement [illegible] fied according to law, said vessel has been duly registered at the port of San Francisco. * * *

Given under my hand and seal at the port of San Francisco, the 10th day of [illegible] ary, 1890. * * *

T. G. PHELPS,
Collector of Customs.

SIDNEY TAYLOR,
Naval Officer.

T. B. SANDERS,
Acting Commissioner of Navigation.

DISTRICT OF SAN FRANCISCO, PORT OF SAN FRANCISCO,
COLLECTOR'S OFFICE.

I hereby certify the within to be a true copy of the original on record in this office.
Given under my hand and seal this 23d day of March, 1900.

N. S. FARLEY,
Deputy Col.

[Stamp.]

Fee, 20 cents, paid.

CASHIER'S OFFICE, CUSTOM HOUSE,
San Francisco, March 23, 1900.

Catalogue No. 335. Permanent.

Copy of certificate of registry No. 75 of the schooner called the *James Hamilton Lewis*, 77.52 tons.

Issued at the port of San Francisco January 10, 1890.

T. G. PHELPS,
Collector of Customs.

medium of the diplomatic channels of the United States the log book has been at the disposition of the Imperial Government at any time and, indeed, as the correspondence shows, the document has been repeatedly offered to the Russian Government for its inspection. The delay in its presentation is therefore due to the Russian Government itself, and such delay can in no wise be brought up as evidence of a fictitious character as regards this piece of evidence.

Similarly the testimony of the master and crew as to their treatment during the period of their detention has been thrown aside by the Russian Government, stating that they are mere assertions unsupported by proofs, and that if the members of the crew suffered ill treatment they should have complained at Vladivostock.

In view of the summary proceedings in confiscating the vessel, the ignoring of their protest against its seizure, and the persistent refusal of a trial, it is not easy to see what these men had reason to believe that they would gain by making any complaint to the Russian officials. It would be an easy method of disposing of testimony unfavorable to the case of a litigant to throw it aside as fictitious. All of this testimony, including the log book, is submitted under oath and must be accepted as valid until disproved.

As regards the authenticity of the log book, it bears upon its face every evidence of genuineness. The several entries are all made seriatim without hiatus, ending with a copy of the protest of the master and the statement of the crew, which is signed by every surviving member thereof. As the crew separated after leaving Vladivostok, and as their signatures are all made with the same ink, it is unreasonable to suppose that they did not sign at the time of the seizure or during detention at Vladivostok.

But even if the evidence of the log book be rejected the fact still remains that the *James Hamilton Lewis* was seized wholly without Russian jurisdiction and without a scintilla of proof that she had ever been within it. She was not even within 6 miles of Russian land when sighted and was coming toward it; therefore she could not have been nearer to it within the knowledge of the Russian officials; though had she been she had the right of innocent passage therein.

No evidence of depredation within Russian territory or territorial waters on the part of the *James Hamilton Lewis* or anyone belonging to her or by anyone else has been shown.

She had certain seal skins upon her which, sailing upon the high seas, she had a right to have. No attempt has been made to prove that they were the skins of seals taken in Russian waters, or even that they were skins of seals of the Russian herd, although this could have been easily established by the experts in the fur-seal business had it been so.

The vessel was arrested upon the merest suspicion, which has not only been proven to have been justifiable, but which the evidence herein submitted proves to have been wholly unfounded.

> Pirates as hostes humani generis, should be pursued by all nations. It is lawful to arrest, search, and deliver to justice, at the nearest port, even be it a foreign port, every vessel legitimately suspected of piracy. It follows from which that, in the application of this principle, since a ship unjustly arrested is entitled to damages, etc. (F. de Martens, Treatise on International Law, Vol. II, p. 342.)

The burden of proof not only against the log book and the other testimony offered, but against the *James Hamilton Lewis* itself is on the Russian Government.

1, 3, 2, 75

The items of damage claimed by the owners, master, and crew of the *James Hamilton Lewis*, for the seizure and confiscation of their vessel, her outfit, and cargo, and by the master and crew for their imprisonment, are as follows:

Value of the vessel and outfit	[illegible]
124 seal skins, at $10 each	[illegible]
Loss of probable catch of 2,000 skins	[illegible]
Claims of men for imprisonment, physical and mental suffering, injury to health, etc., 17 men, at $2,000	34,000.00
Nine years' interest, at 6 per cent	44,949.60
Total	128,189.60

THE MEASURE OF DAMAGES.

The third item, that for loss of catch, is one for absolutely direct damages arising out of seizure. In the case of the United States vessel *Betsey*, unlawfully detained by British authorities, the majority of the board of arbitration decided in favor of allowing to the claimant, not only the value of the vessel and her cargo, but also the profits which would have been derived from the sale of her cargo had she been allowed to continue her voyage. The claims of the owners of the *Neptune* were similarly decided in 1795.

In the case of the American brig *Williams*, seized by the Mexican Government in 1829, the umpire awarded passage money which would have been received if the brig had been permitted to continue her voyage to her immediate destination, where she expected to receive a cargo of passengers.

The damages claimed for loss of catch of a sealing vessel are in no sense a claim for indirect damages or for speculative profits. In the present case they represent the direct loss sustained by the owners, officers, and crew of the *James Hamilton Lewis*, owing to her arrest and confiscation while in pursuit of her lawful calling upon the high seas. They are such damages as are usually allowed in analogous cases for losses suffered, as measured by the value of the services of the vessel, her outfit, and crew.

The rule of damages is well settled that in a fishing voyage the loss of the services of a fishing vessel is to be compensated upon the value of the vessel's use during the voyage interrupted. It is the measure of damage suffered by the parties in interest from the deprivation of the use of their property. It is the same rule of damages as that applied in the case of the seizure of a whaling ship. In the case of the *Costa Rica Packet*, the distinguished arbitrator admitted the principle of the loss of catch of a whaling vessel as the measure of damage owing to the detention of the vessel.

In the case of the *Hope On*, detained by the Chilean Government in 1883 at Talcahuano, the commission of arbitration in rendering its award, said:

> The principle is well established in cases like the present, that the loss of [illegible] of the vessel is the proper measure of damages, and the loss of such use is the [illegible] her probable catch during her enforced absence from the fishing grounds. [illegible] Borden v. Chile.)

The Bering Sea Commission, in its awards in cases analogous to the present, clearly adopted this rule in measuring the damages sustained by sealing vessels owing to seizure.

The loss of the vessel itself is not the only direct injury sustained by these claimants owing to the confiscation of their vessel. The loss of

those cases at least, the commission adopted the rule as contended for by the English Government and as herein stated. In the awards upon all these claims it is perfectly clear that the loss of catch was allowed in measuring the damages. If there were any doubt of this, it is relieved by such cases as No. 14, the *Triumph*, where the sole claim was for loss of catch. In the case of the *Triumph*, No. 14, not No. 11 for the same vessel, the award was $15,500, the original claim was for $19,674, of which $250 was for legal and other expenses, $19,424 being for balance of estimated catch of 2,500 skins at $8 each. It was admitted that the *Triumph* had transshipped part of her season's catch before entering Bering Sea on or about July 4, a considerable part of the season had already elapsed and it was reasonable to suppose that she had taken a fifth part of her probable catch before entering Bering Sea, thus 2,000 skins would remain to be taken to make up the season's work of 2,500 skins. She had on board 72 skins when taken, leaving 1,928 skins to be taken to make up 2,000. One thousand nine hundred and twenty-eight skins at $8 would amount to $15,424, and the award was for $15,450, as has been said.

EXHIBIT A.

Certificate of ownership of vessel.

UNITED STATES CUSTOM SERVICE, PORT OF SAN FRANCISCO,
COLLECTOR'S OFFICE,
March 29, 1900.

I hereby certify that according to the records of this office the schooner called the *James Hamilton Lewis*, of San Francisco, tonnage 77 and 52/100 tons, was registered at this office January 10th, 1890, and the following were her owners, viz:

Herman Liebes, of San Francisco, California, sole owner,
Transfer by bill of sale executed September 17th, 1890.
Herman Liebes to H. Liebes and Company (Inc.). All . . . .
[illegible] executed July 29th, 1891.
[illegible] and Company (Inc.) to Max Waizman, of
[illegible] San Francisco, State aforesaid, All . . . .
and there is no mortgage or lien on record against said vessel in this office.

Given under my hand and seal of office this 29th day of March, 1900, 1.35 p. m.

N. S. FARLEY,
Deputy Collector.

[illegible] cents, paid.
H. J.
[illegible]'s OFFICE, CUSTOM-HOUSE,
SAN FRANCISCO, *March 29, 1900.*
[STAMP.]

EXHIBIT B.

OFFICE OF THE COLLECTOR OF CUSTOMS.
PORT OF SAN FRANCISCO, CAL.,
March 29, 1900.

I hereby certify that the records of this office show that the American schooner *J. H. Lewis*, A. McLean, master, of 78 tons, cleared at this port for a hunting and fishing voyage on the 7th day of March, 1891.

N. S. FARLEY,
Deputy Collector of Customs.

[illegible]
Fee, 20 cents, paid.
[illegible]'s OFFICE, CUSTOM-HOUSE,
SAN FRANCISCO, *March 29, 1900.*

1.3.2.76

EXHIBIT C.

Outward foreign manifest.

Report and manifest of the cargo, laden at the port of San Francisco, on board the American schooner *J. H. Lewis*, whereof A. McLean is master, or (commander), bound for hunting and fishing.

MARCH 7, 1891.

HUNTING AND FISHING GEAR.—SHIP'S STORES.

200 sacks cracked salt.
80¼ sacks flour.
1 sack graham flour.
3 sacks yellow corn meal.
4 sacks oatmeal.
4 boxes peas.
14 barrels beef.
1 barrels pork.
3 barrels mess pork.
2 packages pigs' feet.
100 pounds ham.
198 pounds bacon.
80 pickled shoulders.
2 cases lard.
4 cases roast beef.
1 case mutton.
1 case assorted soup.
20 cases sausages.
4 cases milk.
1 bale cod.
1 bale salmon bellies.
½ bale herrings.
1 case sardines.
2 cases corned beef.
2 cases salmon.
11 packages tobacco.
5,000 cigarettes.
300 cigars.
1 box vermicelli.
¼ dozen yeast cakes.
50 pounds soap.
2 bags coffee.
2 barrels granulated sugar.
2 cases sirups and honey.
2 kegs molasses.
4 kegs sirups.
4 cases bread.
1 tin matches.
5 kegs of pickles and vinegar.
5 boxes of dried fish.
4 cases coal oil.
4 cases peaches and assorted fruits.
4 cases corn and tomatoes.
4 mats China rice.
2 boxes tapioca and corn starch.
2 boxes macaroni.
3 sacks green peas.
7 sacks beans.
35 sacks potatoes.
2 sacks onions.
5 sacks turnips.
2 sacks carrots.
3 dozen cabbages.
1 sack vegetables.
6 cheeses.

8 breech-loading shot guns	$35
15 kegs powder, 750 pounds	105
[illegible] sacks shot 1,250 pounds	100
25,000 primers	30
50,000 wads	40
	310

PORT OF SAN FRANCISCO, *May 7, 1891.*

I hereby certify under oath that I have no arms or ammunition on schooner *J. H. Lewis*, except as mentioned herein. So help me God.

Sworn to this 7th day of March, 1891.

A. MCLEAN, *Master.*
D. M. CASHIN, *Deputy Collector.*

Bond filed March 7, 1891.

W. P. SAXE, *Bond Clerk.*
G. H. F.

DISTRICT AND PORT OF SAN FRANCISCO,
COLLECTOR'S OFFICE,
March 28, 1900.

I hereby certify the foregoing to be a true copy of the original now on file in this office.

N. S. FARLEY, *Deputy Collector.*

[Stamp.]
Fee, 20 cents, paid.
CASHIER'S OFFICE, CUSTOM HOUSE,
[illegible], *March 28, 1900.*

Master or commander's oath on clearing outward.

District and port of San Francisco.

I, A. McLean, master or commander of the schooner *J. H. Lewis*, bound from the port of San Francisco to hunting and fishing, do solemnly, sincerely, and truly swear that the manifest of the cargo on board the said schooner *J. H. Lewis* now delivered

EXHIBIT A.

No. 6616.—UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

[illegible] the[illegible] presents shall come, greeting:

[illegible] that the document hereunto annexed is under the seal of the State of [illegible]fornia, and is entitled to full faith and credit.

[illegible] testimony whereof I, John Hay, Secretary of State of the United States, have [illegible]unto subscribed my name, and caused the seal of the Department of State to be [illegible]

Done at the city of Washington this 6th day of December A. D. 1900, and of the [illegible] of the United States of America the one hundred and twenty-fifth.

JOHN HAY.

[Seal of the Department.]

STATE OF CALIFORNIA, DEPARTMENT OF STATE.

I, C. F. Curry, secretary of state of the State of California, do hereby certify that [illegible] have carefully compared the annexed copy of certificate of incorporation of Eagle Fishing Company with the original now in my office, and that the same is a correct [illegible] therefrom, and of the whole thereof. Also, that this authentication is in [illegible] form and by the proper officer.

Witness my hand and the great seal of state, at office in Sacramento, Cal., the 8th [illegible] September, A. D. 1900.

C. F. CURRY, *Secretary of State.*

[The great seal of the State of California.]

10 cent stamp.

[illegible] 1900

[illegible]

STATE OF CALIFORNIA, DEPARTMENT OF STATE.

I, Edwin G. Waite, secretary of the State of California, do hereby certify that a [illegible] of the articles of incorporation of Eagle Fishing Company, certified by the [illegible] clerk of the city and county of San Francisco as a copy of such articles filed [illegible] office, was filed in this office on the 29th day of September, A. D. 1891, which [illegible] and the copy thereof contained the required statement of facts, to wit: First, [illegible] of the corporation as aforesaid; second, the purpose for which it is formed; [illegible] the place where its principal business is to be transacted; fourth, the term for [illegible] to exist; fifth, the number of its directors or trustees, and the names and [illegible] of those who are appointed for the first year; sixth, the amount of its cap[illegible] and the number of shares into which it is divided; seventh, the amount [illegible] stock actually subscribed and by whom.

[illegible] my hand and the great seal of state, at office in Sacramento, Cal., this the [illegible] September, A. D. 1891.

E. G. WAITE,
Secretary of State.

[illegible] H. STEVENS,
Deputy.

[illegible]

EXHIBIT B.

No. 6615.—UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting:

I certify that the document hereunto annexed is under the seal of the Treasury Department, and is entitled to full faith and credit.

In testimony whereof I, John Hay, Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this 6th day of December, A. D. 1900, and of the independence of the United States of America the one hundred and twenty-fifth.

JOHN HAY.

[Seal of Department of State.]

DIVISION OF APPOINTMENTS.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, December 6, 1900.

This is to certify that N. S. Farley and Stanley Jackson were deputy collectors of customs at the port of San Francisco on November 19, 1900, and September 8, 1900, respectively, the dates upon which the inclosed papers bearing their signatures were executed, and that they were duly authorized to sign as such officers on the respective dates above named, the signatures appearing thereon being identical with those attached to official papers in the files of this office.

GAGE, *Secretary.*

[SEAL.]

OFFICE OF THE COLLECTOR OF CUSTOMS,
PORT OF SAN FRANCISCO, CAL., *November 19, 1900.*

I hereby certify that the American schooner *C. H. White*, of San Francisco, of 84 tons or thereabouts, cleared at this port, for hunting and fishing, on the 6th day of May, 1892, and that L. M. Furman was master, as appears by the records of this office.

N. S. FARLEY,
Deputy Collector of Customs.

CRAIG.

EXHIBIT C.

[Cat. No. 526.—Certificate of ownership of vessel.]

UNITED STATES CUSTOMS SERVICE, PORT OF SAN FRANCISCO,
COLLECTOR'S OFFICE, *September 8, 1900.*

I hereby certify that, according to the records of this office, the schooner called the *C. H. White*, of San Francisco, tonnage 84 and 45 tons net, was registered at this office, October 12, 1891, and the following were her owners, viz:

Eagle Fishing Company, of San Francisco, a corporation duly organized under the laws of the State of California, sole owner of said vessel, and there is no mortgage or lien on record against said vessel in this office.

Given under my hand and seal of office this 8th day of September, 1900, 10.40 a. m.

[illegible],
Deputy Collector.

[Seal of the collector of customs.]

SEPTEMBER 8, 1900.

10-cent stamp. Paid.

CASHIER'S OFFICE, CUSTOM-HOUSE, SAN FRANCISCO,
September 8, 1900.

EXHIBIT D.

[Ichner & Thornley, ship and custom-house brokers, No. 322 Washington street.—Outward foreign manifest.]

(New form.)

[illegible] and manifest of the cargo laden at the port of San Francisco on board the American [illegible] C. H. White, whereof Furman is master, bound for hunting and fishing, May [illegible]

[illegible]	[illegible] and contents.	Quantities, pounds, gallons, etc.	No. 1. Value of domestic merchandise.	No. 2. Value of foreign merchandise free.	No. 3. Value of foreign merchandise from bonded warehouse.	No. 4. Value of foreign merchandise not from bonded warehouse, which has paid duties.	No. 5. Value of foreign merchandise on the passage (in transitu) from one foreign country to another.	To be landed at—
	[illegible]-breech-loading shot [illegible]							
	[illegible]		[illegible]					
	[illegible] breech-loading rifles		[illegible]					
	[illegible]		20.00					
	[illegible]		[illegible]					
	[illegible]		15.00					
	[illegible]		7.00					
	[illegible] powder		10.00					

[illegible] May 6, 1892.

W. P. SAXE, *Bond Clerk.*

DISTRICT AND PORT OF SAN FRANCISCO,
COLLECTOR'S OFFICE, *October 12, 1892.*

I hereby certify the above to be a true copy of the original on file in this office.

JOHN T. DARE, *Deputy Collector.*

Master's or conductor's oath on clearing outward.

District and Port of San Francisco:

I, L. M. Furman, master or conductor of the schooner *C. H. White*, bound from [illegible] port of San Francisco to hunting and fishing, solemnly, sincerely, and truly [illegible] the manifest of the cargo on board the said schooner now delivered by me [illegible] of this district, and subscribed with my name, contains, according to [illegible] my knowledge and belief, a full, just, and true account of all the goods, [illegible] merchandise now actually laden on board the said vessel or vehicle, and [illegible] thereof; and if any other goods, wares, or merchandise shall be laden [illegible] on board the said schooner previous to her departure from this port I will [illegible] report the same to the collector. I do also swear that I verily believe [illegible] foreign merchandise therein specified have been paid or secured [illegible], and that no part thereof is intended to be relanded within the [illegible] and that if, by distress or other unavoidable accident, it shall become [illegible] the same, I will forthwith make a just and true report thereof to [illegible] of customs in the districts wherein such distress or accident may happen. [illegible] cargo is truly intended to be landed in the port of ———. So help me [illegible]

L. M. FURMAN, *Master.*

[illegible] to before me this 6th day of May, 1892.

JOHN T. DARE,
Deputy Collector of Customs.

1.3.2.78

EXHIBIT E.

Minor.]

Certified copy of act of naturalization.—No. 210.

In the superior court of the city and county of San Francisco, State of California. Present: Hon. Jas. Troutt, judge.

In the matter of the application of Niels Wolfgang, an alien, to become a citizen of the United States of America.

In open court, department No. 11, this 26th day of April, A. D. 1892.

It appearing, to the satisfaction of this court, by the oaths of Alfred E. Janssen and Charles E. Rivard, citizens of the United States of America, witnesses for that purpose, first duly sworn and examined, that Niels Wolfgang, a native of Denmark, has resided in the United States of America three years next preceding his arriving at the age of 21 years, and that he has continued to reside in the United States to the present time, and has resided within the limits and under the jurisdiction of the United States five years at least last past, and within the State of California for one year last past; and that during all of said five years' time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and the said applicant has declared his intention to become a citizen of the United States, and having now here before this court taken an oath that he will support the Constitution of the United States of America, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly to the King of Denmark, it is therefore ordered, adjudged, and decreed that the said Niels Wolfgang be, and he is hereby, admitted and declared to be a citizen of the United States of America.

JAS. M. TROUTT, *Judge.*

NIELS WOLFGANG,
Residence, 250 Spear Street.

Witnesses:

ALFRED JANSSEN,
Residence, 250 Spear Street.

CHARLES E. RIVARD,
Residence, 250 Spear Street.

OFFICE OF THE CLERK OF THE SUPERIOR COURT.

CITY AND COUNTY OF SAN FRANCISCO, *State of California, ss:*

I, William J. Blattner, county clerk and ex officio clerk of the superior court in and for the city and county of San Francisco, State of California, said court being a court of record, having common-law jurisdiction and a clerk and seal, do certify that the above is a true copy of the act of naturalization of Niels Wolfgang as the same appears upon the records of said court now in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 26th day of April, in the year of our Lord one thousand eight hundred and ninety-two, and in the year of our Independence the one hundred and sixteenth.

[SEAL.]

WM. J. BLATTNER, *Clerk,*
By GEO. S. MCCOMB, *Deputy Clerk.*

EXHIBIT F.

UNITED STATES OF AMERICA.

MASSACHUSETTS DISTRICT, *ss:*

To all people to whom these presents shall come, greeting:

Know ye that at a special district court of the United States, holden at Boston, within and for the Massachusetts district, on the fifth day of March, in the year of our Lord one thousand eight hundred and eighty-six, Lars Magnus Furman, of Boston, in said district, a mariner born in Gottenburg, Sweden, having produced the evidence and taken and subscribed the oath required by law, was admitted to become

13.5

Pay Roll. Bark Cape Horn Pigeon Season 1887

VOYAGE. Season of 1887					
180 Brls Sperm Oil 5670 Gal	40¢	226800			
440 " Whale " 13860 "	20	277200	#		
4860 Lbs. Whale Bone	12½	607500	11	11500	

SETTLEMENT SHEET. SEASON, 188[illegible]

LAY	NAME	CAPACITY	Gross Voyage	Gross Lay	SHIP BILL	MEMORANDUM	DUE MEN	DUE SHIP
	[illegible] Oliva	Seaman		1262				
	Richard Stewart	Steward		7665	92.15			
	Albert Henry Emigan	Cook		7665	6078	½ the Slush [illegible]		
[illegible]	[illegible] Anderson			[illegible]	9212			
1/55	Luis Ramos	Steerage Boy		7110	3545			
	John Kelly				1080	Dead	95513	

[illegible] 25 00

Pay Roll. [illegible] Season 188[illegible]

VOYAGE. [illegible]

[illegible]

South Cape Arrowsmith
[illegible]
[illegible]
Note Arrowsmith
June 1887
[illegible]

WHALEMEN'S SHIPPING PAPER.

1st. **It is Agreed**, between the Owner Master, Seamen and Mariners of the [illegible] now bound from the Port of [illegible]

[illegible] shall and will perform the [illegible] such [illegible] or Mariners, do severally hereby promise and oblige themselves to do their duty, and obey the lawful commands of the Officers on board said [illegible] or the boats thereunto belonging, as become good and faithful Seamen or Mariners, while [illegible] said shall put in, or anchor at, during the said voyage; to use their best endeavors to obtain a cargo of oil;—and for the preservation of the vessel and cargo;—and not to neglect or refuse doing their duty by day or night; and [illegible] her vessel, or be on shore, under any pretence whatever, until the aforesaid voyage be ended, and the vessel discharged of her loading, without leave first obtained of the Captain or Commanding Officer on board; that in [illegible] be or they shall be liable to all the penalties and forfeitures mentioned in the Marine Law, enacted for the Government and Regulation [illegible] proceeds of the voyage, and the length of the same conjointly.

2d. It is further agreed by all the parties to this contract, that such regulations as a just regard to the good order, effectual government, health and moral habits of the Officers and Men, shall be established and observed on board the said vessel. And to ensure proper attention [illegible] be the duty of the Officer having the care of the Log-Book, to note therein daily all flagrant breaches of the same. It shall especially be his duty to record all instances of drunkenness, all cases of absence from the said [illegible] by any Officer or Seaman, [illegible] Officer or Seaman through the night whether on shore or on board of any other vessel—mark instance of the introduction of any woman or women into the ship for [illegible] duty which may occur, with the cause of it, if occasioned by sickness or infirmity the nature and origin of the same, if known, to be particularly stated, especially if it be the consequence of their own misconduct. And in the [illegible] be the duty of [illegible] in do so, the [illegible] for every such [illegible] in these cases [illegible] have been incurred [illegible] Seaman, after a fair trial, if his stability and disposition shall be judged by the Master incompetent or indisposed to the proper discharge of the duties of his station, the Master shall have a right to displace him, and substitute another in his [illegible] such Officer or Seaman with reference to the duty which he may thereafter perform, thenceforth to take effect, and a reasonable increase of the lay of the individual who may thereupon be promoted to a higher station, shall be made on the final [illegible]

7th. It is understood and agreed, that if any Officer or Seaman shall be prevented by sickness or death from performing the voyage, his legal representatives shall be entitled to such part of the whole amount of his stipulated share as the time of his services on board shall be of the whole term of the voyage.

8th. It is further agreed, that whatever apparel, furniture, or stores, belonging to said vessel, may be given in charge by the Master to any Officer or Seaman, shall be accounted for by him, and in case anything should be lost or damaged through his carelessness or neglect, it shall be made good to the Owners by such Officer or Seaman. And whatever Officer or Seaman the Master shall appoint for the duty, shall take charge of any portion of the cargo or ship's stores required to be landed or brought on board in any boats or lighter, and faithfully perform the service assigned, and see that the said cargo or stores are safely landed and delivered, or brought on board the said vessel, as the case may be.

9th. Each and every Officer and Seaman, who shall have well and truly performed the above-mentioned voyage, complied with the regulations and duties herein specified, and committed no dishonest or unlawful acts, shall be entitled to the payment of his share of the net proceeds of the voyage, pursuant to this agreement, as soon after the return of said [illegible] to [illegible] as the oil and other products of the voyage can be sold, and the settlement adjusted by the Owner or agent of the said [illegible]

10th. In testimony of our assent, consent and agreement faithfully to perform the various duties and obligations implied in the preceding articles and an acknowledgement of their being voluntary and without any compulsion or clandestine [illegible] one of us, severally, hereunto affixed our names on the day and year against them respectively written. And it is hereby understood and mutually agreed, by and between the parties aforesaid, that they, the said Seamen and Mariners, will render themselves on board the said vessel, on or [illegible]

☞ No Distilled Spirits Liquor will be put on board the vessel by the Owner except for strictly medical use; and by their signatures the other parties to this contract PLEDGE themselves not to take any of those articles with them, as their private stores or for traffic, either from this port or from any other port or place where they may be during the voyage. And in case of a violation of this pledge by the Master or any Officer or Seaman, his entire share of the voyage shall be thereupon forfeited to the use of the Owners of the said

TIME OF ENTRY.	NAMES.	STATION.	ADVANCE. DOLLS.	ADVANCE. CTS.	WITNESS TO SIGNING.	LAY.	SHARES.
	[illegible]	Master					
	[illegible]	Mate					
	[illegible]	2d do	100	00		[illegible]	[illegible]
	[illegible]	3d do	35	00	C. E. Dall	[illegible]	[illegible]
	[illegible]	4th do	35	00	"	[illegible]	[illegible]
	[illegible]	do	50	00	"	[illegible]	[illegible]
	[illegible]	do	40	00	"	[illegible]	[illegible]
	[illegible]	do			"	[illegible]	[illegible]
	[illegible]	do			"	[illegible]	[illegible]
	[illegible]	Cooper	35	00		[illegible]	[illegible]
	[illegible]	[illegible]					
	[illegible]	[illegible]					
	[illegible]	Carpenter	40	00	" "	[illegible]	[illegible]
	[illegible]	Steward	30	00	" "	[illegible]	[illegible]
	[illegible]	do	30	00	" "	[illegible]	[illegible]
	[illegible]	do	30	00	" "	[illegible]	[illegible]
	[illegible]	do	30	00	" "	[illegible]	[illegible]
	[illegible]	do	00	00	C. E. Dall	[illegible]	[illegible]
	[illegible]	do	30	00	" "	[illegible]	[illegible]
	[illegible]	do	30	00	" "	[illegible]	[illegible]
	[illegible]	do	30	00	" "	[illegible]	[illegible]
	[illegible]	do				[illegible]	[illegible]
	[illegible]	do				[illegible]	[illegible]
	[illegible]	Seamen	35	00	[illegible] Parker	[illegible]	[illegible]
	[illegible]	do	30	00	" "	[illegible]	[illegible]
	[illegible]	do	30	00	" "	[illegible]	[illegible]
	[illegible]	do	35	00	" "	[illegible]	[illegible]
	[illegible]	do	35	00		[illegible]	[illegible]
	[illegible]	Green hands	25	00	Nathan C. Dall	[illegible]	[illegible]
	[illegible]	do	15	00	" "	[illegible]	[illegible]
	[illegible]	do	25	00	" "	[illegible]	[illegible]
	David [illegible]	do	25	00	" "	[illegible]	[illegible]
	Thomas [illegible]	Steward	35	00		[illegible]	[illegible]
	[illegible]	[illegible]					
	[illegible]	[illegible]					

[illegible] Dec. 22 1854
[illegible] is a true copy of the original
[illegible] Oath Approved Dec. 30 1854
[illegible] Dec. 18[illegible]

Dark Cape Horn Pigeon

Dicy Rock

at

San Francisco

Nov 1887

JOHN BRAKEMEIER,
PANAMA.

Cable Address: "BRAKEMEIER."

1, 3, 4,

Panama, Nov 22nd 1886

This to certify that Charles Smith has this Day Shipped to Burk Cape Horn Pigeon and if he is on board at time of Sailing, is to receive Thirty Dollars $30-00 Advance

Benjamin Kelley
Master

15

1.3.5

Honolulu, H. I. Apr 6th 1885

Bk. Cape Horn Pigeon and Owners,

To OAHU POLICE, Dr.

Mar	31	For arrest of Carl Benjamensen	6 –	
		For Reward, " "	10 –	
		For Sig days detention,	6	#22

Received Payment,

Arnold Hayden

Deputy Marshal.

1.3.6.1

Ochotsks Sea Shantar Bay
Aug 16 1885

Dear Sir

We have taken no Oile and have done nothing, the Russian Manawar drives us out of here and we have to give Right Whaleing in the Sea as they will not alow us to Whale with in 5 miles of the Land I Should like to have a letter from you when I arive at Honolulu and San Francisco as I do not know which place I Shal come to give me your Ideas where

MS 6.2

I had better alter the Voyage or not that is to end the voyage Humpbacking and Sperm Whaleing I should like to have your viewes on it I rite this in haste as the Schooner is aboute to leave that I send this by, am in hopes to get some Right Whales if we have Weather it has ben the worst I ever saw up to date

Yours respect
Benjamin Kelley

P, S,

We are lying in a Harbour and the Weather is bad so that the Schooner has not started have spoke here the Bark E, F Herriman 1 Bowhead 4 California greys makeing 200 bls taken up the N, E, Gulf and Steamer Mary & Hellen 4 Bowheads makin 300 bls up the Gulf, Schooner Clara Light Cleane that is al we have heard from they report a verrey Icey Season with heavey Gales, I send this letter by E, F, Herriman Tender which leaves shortly for Sanfrancisco as he can make no use of her here

Yours respect
B, Keller

1-3-7

$60.00

Honolulu, Oct-19 1885

On Demand, for Value Received, *I promise to pay*

to Capt Kelley *or Order, the Sum*

of Sixty *Dollars, if I fail, after notice*

from the Master or Agents, to deliver M Davis

(unless he should be dead), on board the C A Pigeon

in which vessel he has this day Shipped.

Benjamin Kelley

A H Hart

Licensed Shipping Agent.

Ctdvs. 1 Ino
60c
Oct 19

1.3.8.1

Honolulu Oct 24 1845

This to Certifey

That J. W. Ringer and Son William have shipped on Whaleing Bark Cape Horn Pigeon and are to have Fiftey Dollars apeice Advance to be Paide by A W Peirce & co if on board when the Bark Sailes

Benjamin Kelley
Master

Advs.
J. W. Ringer
Wm Ringer
Pd 100.00

1.2.2.1

1.3.9.1

Tuluhuano
April 2nd 1882

Mr William Potter 2nd

Dear Sir

I send you inclosed Bill of Luden of Oil Shipped I have also Sent Bill of Luden and Letter of Advice to Gans Bowes & Co in the Same Steamer that took the Oil Shall one more by ~~by~~ Next Mail; it would also be well to Send the inclosed Bill with your Letter of

1.3.9.2

Advice to Gang Bowes & Co
will send you some Bills
of Exchange in a few Days

Respectfully,
Yours
W. D. Gipson

Address of
Gang Bowes & Co
Threadneedle St
London

Exchange for

$ 1,[illegible]

J.C. MERRILL & Co

No. 1,3,[illegible]

SHIPPING COMMISSION MERCHANTS.

San Francisco

Dec. 29th 1865

Three days after sight of this ORIGINAL of Exchange (duplicate unpaid) pay to the order of Edw. Merrill Esq. in U.S. Gold Coin One Hundred Seventy Seven & 75/100 Dollars Value received and place to account of Mr. Joseph Hen Tigan

To Wm. Miller Jr. Esq.

South Falmouth Mass.

J.C. Merrill & Co

Paid 1 " 29 " 1866

$248.63

Ellm^d Meade

Rec^d Payment in U.S. Gold coin

Benjn F. Flanner

Cashier

43.12

New Bedford June 26 1867

I do hereby agree as agent of Bark Cape Horn Pigeon of Dartmouth with Ichabod T Hazzard to proceed to Fayal and join the Bark Cape Horn Pigeon of whom Otis S. Snow is at present master as First Officer. I do hereby agree to give him for his faithful performance of his duty the 1/21 One Twenty first Lay in what oil ~~is~~ may be taken after he joins ~~them~~ them at Fayal.

I do also agree to pay his expenses out to join the said Bark and also agree in addition to pay him at the rate of Fifty Dollars ($50.00) per month after the first of ~~September~~ September 1867 up to the first of November 1867 Lay two months in Case the said Bark should not have arrived at the First of September which I anticipate

Wm Potter
Agent of Bark Cape Pigeon

Ag [illegible]
with
[illegible]

1.5.0

on Board Bark Cape Horn Pigeon: Oct 1st 1867
this May certify that I Joseph Blaine
do agree to do duty as Boat steerer on board
and in the Boats of the above mention Bark
for the one hundreath Part or Lay of the Net
proceeds from date, to the end of voyag of
said Bark.

Joseph Belain

V

Consulate of the United States of America.
Russell Bay of Islands March 15th 1864.

I, the [illegible] Consul of the United States of America in New Zealand, [illegible] County, [illegible] of the date hereof, [illegible] me, personally appeared Daniel Sherman, Master of the Barque Cape Horn Pigeon of Dartmouth, and made Oath, in due form of Law, that the Seamen or Mariners hereinafter named, and who are noted on the Crew List of said Vessel as Deserters, absconded from the said Vessel, at the Port or Places hereinafter named, without his knowledge or consent, at or about the times placed opposite to their Names respectively.

And the said Daniel Sherman, Master, [illegible] the said Seamen or Mariners, Deserters as aforesaid were duly shipped at the time and places and for the Monthly Wages, Lay, and Advance hereinafter stated, and as per Contract of Shipping Articles; that the Wages advanced Abroad, Expenses incurred on account of Desertion, Goods supplied to said Seamen or Mariners, as hereinafter stated opposite to their Names respectively, were honestly, justly, and truly advanced, expended, incurred, or supplied, as stated, to and for account of said Seamen or Mariners; and he doth likewise declare, that the balance of Wages due on account of said Seamen or Mariners, Deserters as aforesaid, placed hereinafter their respective Names, as aforesaid, is the true, correct, and just balance which the said Seamen or Mariners would have been entitled to had they been duly discharged and paid off, for the period of time mentioned, and for which he has to account to the Collector of Customs of the Port where the Crew of said Vessel are accounted for, as forfeited Wages, to become the property of the United States.

And I, the said Consul, for myself do hereby Certify that Daniel Sherman, Master aforesaid, exercised due diligence, with my co-operation and assistance, to recover and secure such of said Seamen or Mariners as Deserted at this Port, but without success.

Name of Deserters.	Date of Shipment.	Place of Shipment.	Lay.	Place and Time of Desertion.	Time of Service on Board.	Wages due to day of Desertion.	Advance Wages.	Wages or Money advanced Abroad.	Expenses incurred on account of Desertion.	Goods Supplied.	Amount of Wages forfeited to become the property of the United States.
Francis Joseph	[illegible]	[illegible]	[illegible]	Whaling Bay [illegible]	[illegible]	[illegible]	[illegible]			[illegible]	
Robert Jacob	do	do	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]		
William Smith	do	do	1/180	do	17 Mos	43.55	68.00			01.51	
Jacob Brunsdot	do	do	1/180	do	17 Mos	43.55	72.00	24.00	20.00	10.60	
Elisha Tigder	do	do	1/180	do	17 Mos	43.55	72.00		20.00	10.00	
[illegible]											

Given under my Hand and the Seal of this Consulate, and Sworn to before me, the day and year above written.

E. H. Lennox

U. S. CONSUL.

CONSULATE OF THE UNITED STATES OF AMERICA,

113.15.1

TALCAHUANO, CHILE.

I do hereby certify that Reuben B. Weeks Master of the American Bark Cape Horn Pigeon of Dartmouth personally appeared before me, and declared, that the following named seamen, had deserted therefrom, at the time and place, set against their names respectively, to wit:—

A. M. DuBois, at Talcahuano, Feb. 10, 1859;
Edward Kanaka, do " 2, "
Thomas Ridden, do " 3, "

And without his knowledge or consent and that after making diligent search for them without success, he was compelled to ship other men in their stead

Given under my hand and seal of Office at Talcahuano this 12th day of February A. D. 1859

William Crosby
U. S. Consul.

Cr. — Merrill & Co. — Cash Account — Trial Bal. — Jan. 1, 1895.

[illegible] Rowland	[illegible]	[illegible]	Amount brought up	
W. J. Kelly	[illegible]	[illegible]	Wm. Rider	68 00
Hoyt & Fickel	[illegible]	[illegible]	Otto Weigand	[illegible]
P. H. Perry & Co.	[illegible]	[illegible]	J. J. Weber	[illegible]
Eaton & Snell	[illegible]	[illegible]	Dorr & Weed	17 00
W. & J. C. Walters	[illegible]	[illegible]	Charles Wade	1 50
Thomas Otis	[illegible]	[illegible]	Thomas Allen	2 25
Penn & Porter	[illegible]	[illegible]	Elbridge & Brown	8 00
[illegible]	[illegible]	[illegible]	J. C. Patterson & Co	101 91
J. J. Wye	[illegible]	[illegible]	Cyrus Stewart	12 75
Henry M. Smith	[illegible]	[illegible]	J. A. Joyce	34 92
Wm. J. Crane & Co	2 00	[illegible]	Samuel Green	3 75
John Gray	[illegible]	[illegible]	Oliver Phillips	45 75
Edward Stokes & Co	15 [illegible]	[illegible]	Lyman Allen	28 67
[illegible] & Sargent	3 00	[illegible]	Richard Stevens	1 00
Wm. A. Bennett	[illegible]	[illegible]	Albert Morse	6 00
John Rowland	9 00	[illegible]	Martin & Cadwing	6 75
Willis, Judson & Co.	30 [illegible]	[illegible]	Wm. Jackson	22 96
Daniel Weber	9 [illegible]	[illegible]	[illegible]	[illegible]
[illegible] & Price Clark	4 [illegible]	[illegible]	Joseph Gardner	47 01
John H. Barnes	[illegible]	[illegible]	Walter B. Wales	150 00
[illegible] Porter	[illegible]	[illegible]	Andrew Allen	200 00
[illegible]	[illegible]	[illegible]	Manuel Hyde	15 75
A. B. Cory	[illegible]	[illegible]	Wm. [illegible]	3 01
Edward J. Corrin	[illegible]	[illegible]	A. W. Hallman	3 62
A. W. Stearns & Co	[illegible]	[illegible]	Edward J. Stevens	55 75
[illegible]	[illegible]	[illegible]	Allen Wells Jr.	165 50
[illegible]	[illegible]	[illegible]	David Weber & Co	146 72
Gordon Winslow	[illegible]	[illegible]	Hoyt & Hyman	232 99
[illegible]	[illegible]	[illegible]	James C. Wells Jr.	4 50
Norman C. Ingalls	[illegible]	[illegible]	Henry A. Taylor	42 60
Pupils N. Smith	[illegible]	[illegible]	[illegible]	[illegible]
Henry Ebner	[illegible]	[illegible]	Edward G. Allen	110
Albert Griffin	[illegible]	[illegible]	James Aldridge	37 75
Peter F. Warner Jr.	[illegible]	[illegible]	Geo. Whitney Jr.	14 37
Joseph Strand	[illegible]	[illegible]	Omar Pierce	[illegible]
Wm. Allen	[illegible]	[illegible]	Lloyd H. Perrot	4 [illegible]
Andrew Ware	[illegible]	[illegible]	[illegible]	[illegible]
John Mattson	[illegible]	[illegible]	Chase & Gregg	31 37
[illegible]	[illegible]	[illegible]	Otto Weller, Bro.	10 00
[illegible]	[illegible]	[illegible]	Simpson Short	1 67

Dr. — Merrill & Co. — Cash Account — Trial Bal. — Jan. 1, 1895.

1895 Jan. 5	By Cash			
	" Cash [illegible]			3 00
	" Cash [illegible] & Jefferson			
	per 231 lbs Oil Cypress Wy	6 31 40		
	" 846 " " Paris Cy	52 71	1731 5	106 6
	By Amount [illegible] to Wm. Kilburn	per	Jan. 7/92	116 39
	" " " " Matthew Wenzler	"	7/92	116 39
	" " " " Lyman W. Perkett	"	7/92	116 39
	" " " " Samuel Rider Jr.	"	7/92	116 39
	" " " " Wm. Hyde Jr.	"	7/92	332 53
	" " " " Wm. Rowland	"	7/92	581 14
	" " " " Anthony Paris	"	7/92	581 14
	" " " " Aaron Pettigrew	"	7/92	581 14
	" " " " Wm. Pettigrew	"	7/92	581 14
	" " " " Wm. Pettigrew	"	7/92	581 14
	" " " " J. & Wm. Wing	"	7/92	581 14
	" " " " J. D. Hartley	"	7/92	581 14
	" " " " Adam & Gregg	"	7/92	581 14
	" " " " Charles Wade Jr.	"	7/92	116 39
	" " " " Simpson Earl	"	7/92	116 39
	" " " " Delmar Chase	"	7/92	116 39
	" " " " Otto Weller	"	7/92	581 14
	" " " " Nelson Wilber	"	7/92	581 14
	" " " " Alex. E. Fletcher	"	7/92	581 14
	" " " " Joseph Leonard	"	7/92	581 14
	" " " " Geo. Willis	"	7/92	581 14
	" " " " Henry Holden	"	7/92	581 14
	" " " " Peter E. Stillwell	"	7/92	581 14	1458 45
				$12303 12

Amount brought up			Amount brought up	
Amasa Wilber	2387	45	Matthew Mellen & Co	206 17
[illegible]	11	10	[illegible]	[illegible]
Chas. Stewart	56	50	Wm. Smith	27 00
Hallock & Ferman	15	50	Frederick Stark	171 67
Ada Cross & Co	2035	65	Wm. Pettigrew	1485 00
Ingersoll & Hallman	41	54	J. Paris	100 00
E. Mattson	12	25	Commissions	470 70
St. Wood & Co	[illegible]	31		
				$12303 12

Dr. — Basis Cape Horn Pigeons — Cr.

1837 10-5	Nye & Hartland	108	20	Brown Brothers & Co
	H. J. Hobbs	39	08	Wm Betts
	Hussey & Gilman	1	49	Willis Warfield
	J. H. King & Co.	116	54	J. J. Paine
	Griffin & Snell	209	15	Green & Ward
	W. & J. G. Watkins	35	68	Charles Bean Jr.
	Thomas Otis	39	14	Thomas Allen
	Green & Baker	130	72	Eldridge & Simson
	Warren Weatherby & Son	40	00	J. G. Wetherson & Co
	J. J. Nye	13	00	Ezra Thomas
	Henry W. Smith	5	00	J. & J. Tripp
	Wm. H. Crane & Co	132	10	Samuel Dean
	John Gray	08	40	Abner Potter Jr
	Chas. Baker & Co.	19	24	Stephen Allen
	Allen & Merchant	9	00	Richard Stowell
	Wm. C. Barnell	3	47	Obed Manley
	James Hartland	9	00	Fuller & Cushing
	Potter, Judson & Co.	270	06	Wm. Slocum
	Daniel Baker	9	75	Chas. C. Fuller & Co.
	Chas. & Isaac Glass	4	75	Joseph Lawton
	John H. Barnes	79	74	Nathan B. Wales
	Jacob Porter	2	56	Abraham Allen
	" "	3	25	Emanuel Hafer
	H. B. Coy	147	06	Wm. Price
	Edward Hawkins	42	00	H. W. Hathaway
	A. C. Foster & Co	220	67	Edward J. Stebbins
	" " " " "	340	88	Allen Phillips
	" " " " "	227	53	David H. Green & Co
	Hiram Pindell	4	00	Gifford & Tillinghast
	Josiah Ward	5	00	Phillip Eldridge Jr.
	Simeon Cheswell	20	40	George A. Foster
	Nathan Nickerson	25	15	Nathl Gifford
	Henry Cowen	14	13	Edward Allen
	Alfred Tripp	3	82	James Eldridge
	Isaac & Owen 1st	26	64	Chas. Matthews 2d
	Joseph Gifford	10	08	Chas. Briggs
	Wm. Allen	20	62	Lloyd & Pierce
	Andrew Hall	1	00	Joseph Cleveland
	" "	11	20	Green & Briggs
	John Matthews	210	10	Ezra Fuller, Bonds
	Stephen Hallman	2	40	Simpson Hart
				1,369 97

nd Account — Second Voyage — Sailed 10-5-59 — Cr.

1859
10-5 By Cash Wm. A. Bender.

for Bed ticks &c &c.			33 02
" Cash for Wood & Tobacco.			
for 327 lbs Bed Feathers @ 19¢	62 14		
" 326 " " " Waste @ 6¢	52 16	115 30	706 67

By Amt credited Wm. Helms jr.	jr.	2/32	1162 29	
" " " " Matthew Webster & Co	"	2/32	1162 29	
" " " " David H. Burtt	"	2/32	1162 29	
" " " " Michael Baker 2d	"	2/32	1162 29	
" " " " Wm. Potter 2d	"	2/32	2324 55	
" " " " Wm. Howland	"	1/32	581 14	
" " " " Anthony Baker	"	1/32	581 14	
" " " " Abner Potter Jr	"	1/32	581 14	
" " " " Nye & Phillips	"	1/32	581 14	
" " " " J. & W. R. Wing	"	1/32	581 14	
" " " " J. P. Hadley	"	1/32	581 14	
" " " " Olcott & Higgins	"	1/32	581 14	
" " " " Edwd. R. Tuttle & Co	"	2/32	1162 29	
" " " " Simpson Hurd	"	2/32	1162 29	
" " " " Nathan Chase	"	2/32	1162 29	
" " " " Ezra Kelley	"	1/32	581 14	
" " " " Simeon Whitney	"	1/32	581 14	
" " " " Alex. R. Dawley	"	1/32	581 14	
" " " " Joseph Clarke	"	1/32	581 14	
" " " " Jesse Kelley	"	1/32	581 14	
" " " " George Gardiner	"	1/32	581 14	
" " " " George F. Gifford	"	1/32	581 14	14,556 45
				$19,303 12

General Ledger Cr.		
Simeon Whitney	2,399	45
Kelley & Butler	17	60
Edwd. Gifford	36	50
Hutling & Bowman	15	50
Mulcomes & Crane	2,125	65
Reynolds & Tallman	41	54
E. Matthews	12	25
G. Wharf & Co	41	31

General Ledger Dr.		
Matthew Webster & Co	2,097	17
Ezra Kelley	17	76
Wm. Smith	77	00
Frederick Sherrill	171	61
Wm. Potter 2d	1455	04
Jesse	100	00
Commissions	470	90
	$19,303	12

Book C. H. Ryeins,

Outward Acct,

2d Voyage,

Francis B. Weeks

Master,

Sailed, 10 Mo 5th 1850

3.16.1

Received from Captain Otis S. Snow

of Barque "Cape Horn Pigeon" of New Bedford

Forty casks containing Seven thousand

seven hundred and eighteen gall^s of Sperm oil

more or less, which we engage to ship to New York, or some port in the United States to the eastward of it, for the sum of one dollar and twenty-five cents in gold, per barrel of thirty-one and one-half gallons, subjecting the oil to the charges of such expenses as we may pay upon it in Fayal, and furthermore to the charge of forty cents per barrel for storage and commission, the whole payable in gold, on delivery of the oil. Not accountable for leakage

Fayal, 10th Septr 1861.

Thos W Dabney Hoar

1.3.1811

ST. HELENA, March 24, 1868.

Bark ~~SHIP~~ Cape Horn Pigeon AND OWNERS.

On the termination of the Voyage of the Bark Cape Horn Pigeon pay to Manuel Frank or order, what may be due to him for his voyage in said Bark he being this day discharged at this Port by mutual consent—the said Manuel Frank is entitled to the One hundred & ninety (190) lay, the Ship having been out, and he having served in her, at the time of his discharge, seventeen months and twenty six days, and the quantity of Oil and Bone taken, including that held and shipped, as well as that now on board being nine hundred barrels of Sperm. 60 barrels whale, Oil and five hundred pounds of Bone.

Witnesses: Timothy Hoolana

Otis S. Nye Master.

$160. Nin. Bedford. June 2d 1868

Recd. of Capt. Nye Proceeds of Ship Cape Horn Pigeon One Hundred and Sixty Dollars in full payt. of this voucher

Manuel Frank by Wm. E. Brown

CONSULATE OF THE UNITED STATES OF AMERICA

AT ST. HELENA, March 24 1868

I, the Undersigned, ~~Consul~~ Consul Ag.t of the United States of America for St. Helena, do hereby certify that on the day of the date hereof, before me personally appeared Otis S. Snow Master of the Barque Cape Horn Pigeon of Martinsville who in my presence, and in the presence of the Witnesses thereunto, signed the foregoing order, and acknowledged the same to be correct in all of its particulars, and to be his voluntary act and deed for the purposes therein mentioned.

Given under my hand and Seal of this Consulate,

this 24 day of March 1868

Thomas Fortune

United States ~~Consul~~ Consul Ag.t

Witness by order

U.S.R.S.

[Form No. 41.]

Consulate of the United States of America.

Hakodadi, Japan, April 18th **18**65

I, the undersigned, Consul of the United States of America for Hakodadi, Japan, and the dependencies thereof, do hereby certify that the *undernamed* seamen or mariners have been duly discharged at this port from the Bk "Cape Horn Pigeon" of New Bedford, according to law; Sherman, the master of the said Bayne having deposited in this Consulate the extra wages as hereinafter set opposite to their names, respectively, viz:

DATE OF DISCHARGE.		NAME OF SEAMAN OR MARINER.	No. Month's Extra Wages.	AMOUNT.
April	18	George Lainer	3	$36.–
		Sick		
"	"	Edwd Horne		
		Deserted		

Given under my hand and the Seal of this Consulate, the day and year above written.

N. E. Rice

for U. S. Consul.

18

13,113

$ 17 71

San Francisco, Nov 2d 1887

THIS MAY CERTIFY that I have this day been discharged from the Bark Cap Horn Hero B. Kelly Master, by mutual consent, and in consideration of receiving my discharge at this port I hereby acknowledge the receipt of Seventeen 71/100 dollars in full settlement and compromise of all claim or claims I have or may have against the agents, owners and master of said bark or vessel for services rendered by me to date.

WITNESS :

E H Hanson

L. G. Cobb

Charles Smith

1s795

Bark Cupid Hon Pigeon

Chas Smith

c 1771

1. 3. M. 2

Nov. 11th 1882.

Boston Marine Insurance Company.

120

No. 10092

Edward F. Potter

On Property Ex. Cape Hom Pigeon.

$15.000.= @ 78 — per cent. $ 93.75

Policy 1.00

$ 94.75

126
No. 10092

1, 3, 18, 1

BY THE

Boston Marine Insurance Company

Nov. 30th 1882. This policy attached for $12.650.= and the property transferred [illegible] to [illegible] by Pol. Joseph C. [illegible], terminating [illegible] Prem. same (3/4 to [illegible]) $12.650.= incl. [illegible] $95.88 [illegible]

Edward F. Potter — ON ACCOUNT OF whom it may concern —

In case of loss to be paid to Edward F. Potter — do make insurance, and cause

to be insured, lost or not lost Fifteen Thousand Dollars, on Property, at and from Panama by Rail Road to Aspinwall, at and thence by Steamer or Steamers to New York and at and thence by Vessel or Vessels (sail or steam) to New Bedford, Mass. — On account of Shipments from Bark Cape Horn Pigeon, and to attach to 50% of amount of Property shipped as per Bills of Lading, but not to exceed $15.000. —

Sum Insured,

$15.000.=

BEGINNING this insurance upon the said property, hereby insured, from and immediately following the loading thereof on board the said vessel, and so shall continue during the voyage aforesaid and until landed.

AND it shall be lawful for the said vessel, in her voyage, to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather or other unavoidable accidents without prejudice to this insurance. And the said property hereby insured is valued at, including premium, —

Sperm Oil $1.00 per Gall. and Whale Oil $0.50 per Gall.

Saml. H. Cook, Agt.

TOUCHING the adventures and perils which the said Boston Marine Insurance Company is contented to bear, and take upon itself in this voyage, they are, of the *Seas, Fire, Barratry of the Master* (unless the insured be an owner of the vessel) *and of the Mariners*, and all other losses and misfortunes, which have or shall come to the damage of the said property, or any part thereof, to which insurers are liable by the rules and customs of insurance in Boston, subject to the conditions and provisions contained or referred to by clauses in this Policy; provided, that the insurers shall not be liable for any partial loss on RUSSIA HEMP, HEMPEN YARNS, FLAX, TOBACCO, CIGARS, OIL CAKE RATTAN and MATTING, unless the loss amount to *twenty per cent.* on the whole aggregate value of such articles; nor for any partial loss on SALTPETRE, NITRATE OF SODA, SOAP, RICE, MADDER and MADDER ROOT, COFFEE, PEPPER, GUNNY CLOTH, GUNNY BAGS, TWINE, JUTE, JUTE BUTTS, SKINS and EAST INDIA HEMP, unless the loss amount to *ten per cent.* on the whole aggregate value of such articles, nor for any partial loss on SUGAR, FLAXSEED, BREAD and LINSEED, or the freight thereon, unless the loss amount to *seven per cent.* on the whole aggregate value of such articles; nor for any partial loss on SALT, GRAIN, FISH, FRUIT, HIDES, HIDE CUTTINGS, HORNS, HOPS, or other goods that are esteemed perishable in their own nature, or the freight thereon, unless it amount to *seven per cent.* on the whole aggregate value of such articles, and be caused by stranding; nor or leakage of OIL, MOLASSES, or other liquids, or the freight thereon, unless it be occasioned by stranding or collision with another vessel; nor for any claim for damage on RAILROAD IRON or STEEL RAILS, LUMBER, DRY GOODS, COAL, MARBLE, STONE, SLATE or BRICKS, but liable for a total loss of a part if amounting to five per cent. on the whole aggregate value of such articles; nor for any partial loss or damage to BAR, BUNDLE, ROD, HOOP, PLATE or SHEET IRON, STOVES, or other castings, IRON PIPES, CHAINS, ANVILS, WIRE of all kinds, TIN PLATES, STEEL, CEMENT, RAGS, PAPR STOCK, CLOCKS, SUMAC, FURNITURE, MATCHES, WILLOW WARE, WICKER WARE, PICTURES, MUSICAL INSTRUMENTS, LOOKING-GLASSES, CARRIAGS, NAILS, CUTLERY, SEWING or other MACHINES, FIRE-CRACKERS and other FIRE-WORKS, GUNPOWDER, CANARY-SEED, YELLOW BERRIES, CANNED GOODS, MEAL, all LIQUIDS, VEGETABLES, or other COUNTRY PRODUCE, or the freight thereon, SHIP-STORES, CREAM TARTAR and other CHEMICALS, WOODEN WARE, ZINC, BURLAPS, BLEACHING POWDERS, SODA, CHEMICALS, DRY PAINTS, PEARL-ASH, and CHINA or FIRE CLAY, GUANO or FERTILIZERS, HAY, PLASTER, LIME, STRAW GOODS, SMOKING-PIPES, HARDWARE, DYE-WOODS and other DYE-STUFFS, HESSIANS PLATE-GLASS, WINDOW-GLASS, CHINA, CROCKERY, GLASS and STONE WARE, or other articles liable to breakage, CASSIA in mats, LINSEED in pockets, and goods stowed loose or used for dunnage; nor for any partial loss on other goods, or the freight thereon, unless it amount to *five per cent.*, exclusive, in each case, of all charges and expenses incurred for the purpose of ascertaining and proving the loss; but the owners of such goods shall recover in general average. All risks insured as under deck, unless otherwise agreed. It is further agreed that the highest valuation under which the vessel is insured, in any policy, shall be the basis for ascertaining a technical total loss of Freight under this policy. In all cases of loss by jettison, the same shall be settled on the principle of general average only, but not liable for general average or general contribution in case of the jettison of deck-load. It is further agreed, that this Insurance Company shall not be liable for damage or injury to goods by dampness, rust, change of flavor, or by being spotted, discolored, musty or mouldy, unless the same be caused by actual contact of sea-water with the articles damaged, occasioned by sea perils. And it is further agreed, that the insurers shall not be answerable for loss or damage, by wet or exposure to the elements, of goods insured as on deck; nor for any other loss on the same, unless it amount to *twenty per cent.*, and then for the excess above *fifteen per cent.* only. In the insurance of Profits or Commissions, the insurers shall not be liable for any greater rate per cent. of partial loss than may be paid on the property from which they are expected to arise, but are entitled to the same per cent. of salvage. This Company shall not be liable for any general average claim arising from a loss of ICE, in whole or in part, unless occasioned by jettison; nor for general average, nor for partial or constructive total loss on said ICE, nor for the loss of said ICE in case the ship is obliged to make a port of distress, but only for the total destruction of said ICE by stranding, sinking, or fire. In case of general average, this Company shall not be liable to contribute upon a sum greater than the amount insured. And in case of any loss or misfortune, it shall be lawful and necessary for the insured, his or their factors, servants and assigns, to sue, labor, and travel for, in and about the defence, safeguard, and recovery of the said property, or any part thereof, without prejudice to this insurance; to the charges whereof the said Insurance Company will contribute in proportion as the sum insured is to the whole sum at risk; and the acts of the insured, or insurers, in recovering, saving and preserving the property insured in case of disaster, shall not be considered a waiver or acceptance of an abandonment. Having been paid the consideration for this insurance by the insured, at and after the rate of

Five Eighths per cent. to add 1/8% if by Sailing Vessel (under & on deck) from New York to New Bedford. —

Premium,	$ 93.75
Policy,	1.00
	$ 94.75
Add'l. prem.	1.13
Earned	$95.88

IN case of loss, the agent of this Company must be represented on the survey, if there be an agent at or near the place where the loss occurs or repairs are made, and all bills for repairs or expenses must be approved by him. Losses shall be paid in sixty days after this Company shall receive proof and adjustment thereof together with proof of interest in the property insured, the amount of the premium note without discount, if unpaid, and all sums due to this Insurance Company from the insured when such loss becomes due, being first deducted and all sums coming due being first paid or secured to the satisfaction of the President and Directors, they discounting interest for anticipating payment. And it is hereby agreed, that if the said insured shall have made any other insurance upon the property aforesaid, prior in date to this Policy, then the said Insurance Company shall be answerable only for so much as the amount of such prior insurance may be deficient towards fully covering the Property hereby insured, and the said Insurance Company shall return the premium upon so much of the sum by them insured as they shall be by such prior insurance exonerated from; provided no return premium shall be made for any passage whereon the risk has once commenced. And in case of any insurance upon the said property subsequent in date to this policy, the said Insurance Company shall nevertheless be answerable for the full extent of the sum by them subscribed hereto, without right to claim contribution from such subsequent insurers, and shall, accordingly, be entitled to retain the premium by them received, in the same manner as if no such subsequent insurance had been made. Warranted by the insured free from any loss or claim, on account of capture, seizure, detention or destruction by, or arising from, any belligerent nation, or by, or from, any Officer, Civil or Military, or any other person claiming to act in their name, or under their authority, or in their behalf, or for any charge, damage or loss, which may arise in consequence of capture, seizure, or detention, or the consequences of any attempt thereat, any stipulations in this policy to the contrary notwithstanding, or on account of illicit or prohibited trades or trade in articles contraband of war. It is also agreed, that in case of capture or detention, when those risks are assumed by this Insurance Company, the insured shall not have a right to abandon therefor, until proof is exhibited of condemnation or of the continuance of the detention, by capture or other arrest, for at least ninety days; and that the insured shall not abandon in consequence of the port of destination being blockaded or rendered unsafe, but the vessel shall in such case have liberty to proceed to another safe port not blockaded, and there end the voyage, or wait a reasonable time for the blockade of the original port of destination to be raised. It is also agreed that this insurance shall be void in case this Policy, or the interest insured thereby, shall be sold, assigned, transferred or pledged, without the previous consent in writing of the insurers. If the voyage aforesaid shall have begun, and shall have terminated before the date of this Policy, then there shall be no return of premium on account of such termination of the voyage.

This Company is not liable for Wages or Provisions, except in general average when customary at port of destination.

In witness whereof, The President of the said BOSTON MARINE INSURANCE COMPANY hath hereunto subscribed his name, and caused the same to be countersigned by the Secretary, at the office in Boston, this 11th, day of Nov. one thousand eight hundred and eighty-two. —

[illegible] Secretary.

[illegible] President.